

4697

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the penal law and the not-for-profit corporation law, in relation to prohibiting funding and support of terrorist activities and organizations

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

1 Section 1. Section 490.15 of the penal law, as added by chapter 300
2 of the laws of 2001, is amended to read as follows:
3 S 490.15 Soliciting or providing support for an act of terrorism in the
4 first degree.
5 A person commits soliciting or providing support for an act of terror-
6 ism in the first degree when:
7 1. he or she commits the crime of soliciting or providing support for
8 an act of terrorism in the second degree and the total value of material
9 support or resources exceeds one thousand dollars; OR
10 2. HE OR SHE, AS AN OFFICER OR DIRECTOR OF A NOT-FOR-PROFIT CORPO-
11 RATION, KNOWINGLY PERMITS SUCH CORPORATION TO ASSIST, FUND OR SUPPORT
12 TERRORISM.
13 Soliciting or providing support for an act of terrorism in the first
14 degree is a class C felony.
15 S 2. Section 115 of the not-for-profit corporation law, as added by
16 chapter 669 of the laws of 1977, is amended to read as follows:
17 S 115. Power to solicit contributions for charitable purposes.
18 (A) SOLICITATION OF CONTRIBUTIONS FOR CHARITABLE PURPOSES. No corpo-
19 ration having the power to solicit contributions for charitable purposes
20 may solicit contributions for any purpose for which approval of such
21 solicitation is required under the provisions of section four hundred
22 four of this chapter unless the certificate specifically makes provision
23 for such solicitation and the required written approval is endorsed on

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

LBD03545-01-9

1 or annexed to such certificate or unless the corporation is among those
2 referred to in section one hundred seventy-two-a of the executive law.
3 If such approval is not obtained and the corporation continues to solicit
4 it or to receive contributions for such purpose or advertises that it
5 has obtained such approval, the attorney general, at the request of the
6 officer or body authorized to grant such approval, shall maintain an
7 action or proceeding pursuant to the provisions of subparagraph one of
8 paragraph (a) of section one hundred twelve of this [chapter] ARTICLE.
9 Such an action may also be maintained in relation to a corporation here-
10 inafter incorporated if the name, purposes, objects or the activities of
11 such corporation may, in any manner, lead to the belief that the corpo-
12 ration possesses or may exercise any of such purposes.

13 (B) CONTRIBUTIONS SOLICITED FOR, OR TRANSFERRED TO, ORGANIZATIONS THAT
14 SUPPORT TERRORISM PROHIBITED. NO CORPORATION FORMED UNDER THIS CHAPTER
15 SHALL SOLICIT CONTRIBUTIONS FOR, OR TRANSFER ANY MONIES TO, ANY PERSON
16 OR ORGANIZATION WHICH ASSISTS, FUNDS OR SUPPORTS TERRORISM OR TERRORIST
17 ACTIVITIES. TERRORISM AND TERRORIST ACTIVITIES FOR THE PURPOSES OF THIS
18 SECTION, SHALL INCLUDE ANY ACT, OR THREAT OF AN ACT, OF VIOLENCE
19 DIRECTED AGAINST THE UNITED STATES, ANY STATE, OR LOCAL GOVERNMENT, OR
20 AGAINST ANY PERSON OR PROPERTY WITHIN THE UNITED STATES, IF SUCH ACT, OR
21 THREAT OF AN ACT, OF VIOLENCE IS MOTIVATED BY RELIGIOUS, CULTURAL OR
22 POLITICAL IDEOLOGY. FOR THE PURPOSES OF THIS SECTION, THE ASSISTANCE,
23 FUNDING OR SUPPORT OF TERRORISM SHALL INCLUDE ANY ACTIVITY WHICH COULD
24 ASSIST THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF
25 TERRORISM OR TERRORIST ACTIVITIES, INCLUDING THE ASSISTANCE, FUNDING OR
26 SUPPORTING OR ANY EDUCATIONAL, RELIGIOUS, CULTURAL OR POLITICAL ORGAN-
27 IZATION, OR PERSON OFFICIALLY AFFILIATED WITH SUCH ORGANIZATION, WHICH
28 ADVOCATES THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF
29 TERRORISM OR TERRORIST ACTIVITIES. THE ATTORNEY GENERAL AND/OR THE STATE
30 COMPTROLLER, UPON PROBABLE CAUSE, MAY AUDIT AND INVESTIGATE ANY CORPO-
31 RATION FORMED UNDER THIS CHAPTER, SUSPECTED OF VIOLATING THE PROVISIONS
32 OF THIS SECTION. UPON THE CONDUCT OF SUCH AUDIT OR INVESTIGATION, THE
33 ATTORNEY GENERAL AND STATE COMPTROLLER SHALL BE PERMITTED FULL AND UNRE-
34 STRICTED ACCESS TO ALL RECORDS, PAPERS AND ACCOUNTS OF SUCH CORPORATION,
35 AND SHALL ALSO BE EMPOWERED TO DEPOSE UNDER OATH, ANY OFFICER, DIRECTOR
36 OR EMPLOYEE OF SUCH CORPORATION. THE ATTORNEY GENERAL SHALL ALSO HAVE
37 THE POWER, AS SHALL THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE
38 CORPORATION MAINTAINS ITS OFFICES, TO PROSECUTE ANY VIOLATION OF THIS
39 SECTION. ANY CORPORATION FOUND TO HAVE VIOLATED THE PROVISIONS OF THIS
40 SECTION, AND/OR ANY CORPORATION WHICH HAS AN OFFICER OR DIRECTOR FOUND
41 GUILTY OF SECTION 490.15 OF THE PENAL LAW UPON APPLICATION TO THE
42 SUPREME COURT BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY SHALL BE
43 DEEMED IMMEDIATELY DISSOLVED, WITH ITS ASSETS IMMEDIATELY TRANSFERRED TO
44 THE STATE OF NEW YORK, AND THE STATE COMPTROLLER UPON DEPOSITING SUCH
45 ASSETS INTO A SEGREGATED ACCOUNT SHALL THEREUPON DISBURSE SUCH ASSETS TO
46 OTHER CHARITABLE ORGANIZATIONS WHICH DO NOT ASSIST, FUND OR SUPPORT
47 TERRORISM OR TERRORIST ACTIVITIES, UNLESS THE SUPREME COURT FINDS
48 COMPELLING EVIDENCE THAT THE CORPORATION'S EXISTENCE SHOULD BE MAIN-
49 TAINED AND THE CORPORATION HAS DEMONSTRATED THAT ALL PERSONS INVOLVED IN
50 THE ACTIVITIES CONSTITUTING A VIOLATION OF THIS SECTION HAVE BEEN PERMA-
51 NENTLY BARRED FROM EMPLOYMENT, ASSOCIATION, AND/OR ANY INVOLVEMENT WITH
52 THE CORPORATION.

53 S 3. This act shall take effect January 1, 2010.