

5877

2011-2012 Regular Sessions

I N   A S S E M B L Y

March 2, 2011

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Introduced by M. of A. KAVANAGH, STEVENSON -- 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, UNLESS THE CONTEXT OTHERWISE  
14 REQUIRES, A PARTNERSHIP (I) FORMED BY TWO OR MORE PERSONS PURSUANT TO  
15 THE PARTNERSHIP LAW OR WHICH COMPLIES WITH SUBDIVISION (A) OF SECTION  
16 121-1202 OF THE PARTNERSHIP LAW AND (II) HAVING ONE OR MORE GENERAL  
17 PARTNERS AND ONE OR MORE LIMITED PARTNERS, WHICH (A) IS NOT A PROFES-  
18 SIONAL PARTNERSHIP UNDER THIS SECTION, (B) IS AFFILIATED WITH A PROFES-  
19 SIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE  
20 LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN  
21 PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNER-  
22 SHIP THAT IS A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION OR A FOREIGN  
23 LIMITED LIABILITY PARTNERSHIP UNDER CLAUSE (I) OR (II) OF THE EIGHTH  
24 UNDESIGNATED PARAGRAPH OF SECTION TWO OF THE PARTNERSHIP LAW, AND (C)

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

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1 RENDERS SERVICES RELATED OR COMPLEMENTARY TO THE PROFESSIONAL SERVICES  
2 RENDERED BY, OR PROVIDES SERVICES OR FACILITIES TO, SUCH PROFESSIONAL  
3 SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED  
4 LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN PROFES-  
5 SIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNERSHIP OR  
6 FOREIGN LIMITED LIABILITY PARTNERSHIP.

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

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

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

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

1 person who solicits or knowingly receives any money or property in  
2 violation of this section, shall be guilty of a misdemeanor.

3 2. Notwithstanding the provisions of subdivision one of this section,  
4 any corporation or an organization financially supported in whole or in  
5 part, by such corporation, OR ANY LIMITED LIABILITY COMPANY, PROFES-  
6 SIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PART-  
7 NERSHIP may make expenditures, including contributions, not otherwise  
8 prohibited by law, for political purposes, in an amount not to exceed  
9 five thousand dollars in the aggregate in any calendar year; provided  
10 that no public utility shall use revenues received from the rendition of  
11 public service within the state for contributions for political purposes  
12 unless such cost is charged to the shareholders of such a public service  
13 corporation.

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

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

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

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

54 S 4. Severability. If any clause, sentence, paragraph, section or part  
55 of this act shall be adjudged by any court of competent jurisdiction to  
56 be invalid and after exhaustion of all further judicial review, the

1 judgment shall not affect, impair or invalidate the remainder thereof,  
2 but shall be confined in its operation to the clause, sentence, para-  
3 graph, section or part of this act directly involved in the controversy  
4 in which the judgment shall have been rendered.  
5 S 5. This act shall take effect January 1, 2012; provided that  
6 contributions legally received prior to the effective date of this act  
7 may be retained and expended for lawful purposes and shall not provide  
8 the basis for a violation of article 14 of the election law, as amended  
9 by this act; and provided, further, that the state board of elections  
10 shall notify all candidates and political committees of the applicable  
11 provisions of this act within thirty days after this act shall have  
12 become a law.