

5294

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. BALL -- 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 executive law, 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. The executive law is amended by adding a new section 718 to  
2 read as follows:

3 S 718. REPORTS OF NOT-FOR-PROFIT CORPORATIONS. 1. EVERY NOT-FOR-PROFIT  
4 CORPORATION SHALL QUARTERLY FILE A DETAILED REPORT WITH THE DIVISION OF  
5 HOMELAND SECURITY AND EMERGENCY SERVICES, IF SUCH CORPORATION CONDUCTS  
6 BUSINESS WITH, RECEIVES MONIES FROM, OR TRANSFERS MONIES TO, ANY PERSON,  
7 FIRM, BUSINESS, CORPORATION, GOVERNMENT OR CHARITABLE INSTITUTION OR  
8 SERVICE IN AFGHANISTAN, PAKISTAN, IRAN, SYRIA, YEMEN, LEBANON, IRAQ,  
9 EGYPT, SAUDI ARABIA, LIBYA, NIGERIA, SOMALIA, ALGERIA, RUSSIA, PERU,  
10 PHILIPPINES, MALI, INDONESIA, OR MALAYSIA. THE FORM OF SUCH DETAILED  
11 REPORT, WHICH SHALL CONTAIN THE NATURE OF THE BUSINESS CONDUCTED, THE  
12 AMOUNTS OF MONIES RECEIVED AND TRANSFERRED, AND THE PURPOSES FOR SUCH  
13 ACTIVITIES, AS WELL AS ALL OTHER MATTERS OF INTEREST TO THE DIVISION,  
14 SHALL BE ESTABLISHED BY REGULATIONS PROMULGATED BY THE DIVISION. THE  
15 COMMISSIONER OF THE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES  
16 MAY ACCEPT A SIMULTANEOUS FILING OF ALL DOCUMENTS REQUIRED TO BE FILED  
17 BY SUCH CORPORATION WITH THE DEPARTMENT OF LAW'S BUREAU OF CHARITIES IN  
18 LIEU OF, OR IN ADDITION TO, THE FILING OF THE DETAILED REPORT.

19 2. ANY OFFICER, DIRECTOR OR EMPLOYEE OF A NOT-FOR-PROFIT CORPORATION,  
20 WHO FAILS TO MAKE A REQUIRED FILING PURSUANT TO SUBDIVISION ONE OF THIS  
21 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED TWO THOUSAND  
22 FIVE HUNDRED DOLLARS. ANY OFFICER, DIRECTOR OR EMPLOYEE OF A  
23 NOT-FOR-PROFIT CORPORATION, WHO KNOWINGLY FAILS TO MAKE A REQUIRED

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

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1 FILING PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL BE GUILTY OF A  
2 CLASS A MISDEMEANOR.

3 S 2. Section 490.15 of the penal law, as added by chapter 300 of the  
4 laws of 2001, is amended to read as follows:

5 S 490.15 Soliciting or providing support for an act of terrorism in the  
6 first degree.

7 A person commits soliciting or providing support for an act of terror-  
8 ism in the first degree when:

9 1. he or she commits the crime of soliciting or providing support for  
10 an act of terrorism in the second degree and the total value of material  
11 support or resources exceeds one thousand dollars; OR

12 2. HE OR SHE, AS AN OFFICER OR DIRECTOR OF A NOT-FOR-PROFIT CORPO-  
13 RATION, KNOWINGLY PERMITS SUCH CORPORATION TO ASSIST, FUND OR SUPPORT  
14 TERRORISM.

15 Soliciting or providing support for an act of terrorism in the first  
16 degree is a class C felony.

17 S 3. Section 115 of the not-for-profit corporation law, as added by  
18 chapter 669 of the laws of 1977, is amended to read as follows:

19 S 115. Power to solicit contributions for charitable purposes.

20 (A) SOLICITATION OF CONTRIBUTIONS FOR CHARITABLE PURPOSES. No corpo-  
21 ration having the power to solicit contributions for charitable purposes  
22 may solicit contributions for any purpose for which approval of such  
23 solicitation is required under the provisions of section four hundred  
24 four of this chapter unless the certificate specifically makes provision  
25 for such solicitation and the required written approval is endorsed on  
26 or annexed to such certificate or unless the corporation is among those  
27 referred to in section one hundred seventy-two-a of the executive law.  
28 If such approval is not obtained and the corporation continues to solici-  
29 it or to receive contributions for such purpose or advertises that it  
30 has obtained such approval, the attorney general, at the request of the  
31 officer or body authorized to grant such approval, shall maintain an  
32 action or proceeding pursuant to the provisions of subparagraph one of  
33 paragraph (a) of section one hundred twelve of this [chapter] ARTICLE.  
34 Such an action may also be maintained in relation to a corporation here-  
35 inafter incorporated if the name, purposes, objects or the activities of  
36 such corporation may, in any manner, lead to the belief that the corpo-  
37 ration possesses or may exercise any of such purposes.

38 (B) CONTRIBUTIONS SOLICITED FOR, OR TRANSFERRED TO, ORGANIZATIONS THAT  
39 SUPPORT TERRORISM PROHIBITED. NO CORPORATION FORMED UNDER THIS CHAPTER  
40 SHALL SOLICIT CONTRIBUTIONS FOR, OR TRANSFER ANY MONIES TO, ANY PERSON  
41 OR ORGANIZATION WHICH ASSISTS, FUNDS OR SUPPORTS TERRORISM OR TERRORIST  
42 ACTIVITIES. TERRORISM AND TERRORIST ACTIVITIES FOR THE PURPOSES OF THIS  
43 SECTION, SHALL INCLUDE ANY ACT, OR THREAT OF AN ACT, OF VIOLENCE  
44 DIRECTED AGAINST THE UNITED STATES, ANY STATE, OR LOCAL GOVERNMENT, OR  
45 AGAINST ANY PERSON OR PROPERTY WITHIN THE UNITED STATES, IF SUCH ACT, OR  
46 THREAT OF AN ACT, OF VIOLENCE IS MOTIVATED BY RELIGIOUS, CULTURAL OR  
47 POLITICAL IDEOLOGY. FOR THE PURPOSES OF THIS SECTION, THE ASSISTANCE,  
48 FUNDING OR SUPPORT OF TERRORISM SHALL INCLUDE ANY ACTIVITY WHICH COULD  
49 ASSIST THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF  
50 TERRORISM OR TERRORIST ACTIVITIES, INCLUDING THE ASSISTANCE, FUNDING OR  
51 SUPPORTING OF ANY EDUCATIONAL, RELIGIOUS, CULTURAL OR POLITICAL ORGAN-  
52 IZATION, OR PERSON OFFICIALLY AFFILIATED WITH SUCH ORGANIZATION, WHICH  
53 ADVOCATES THE ADVANCEMENT, PLANNING, OPERATION, CONDUCT OR ADVOCACY OF  
54 TERRORISM OR TERRORIST ACTIVITIES. THE ATTORNEY GENERAL AND/OR THE STATE  
55 COMPTROLLER, UPON PROBABLE CAUSE, MAY AUDIT AND INVESTIGATE ANY CORPO-  
56 RATION FORMED UNDER THIS CHAPTER, SUSPECTED OF VIOLATING THE PROVISIONS

1 OF THIS SECTION. UPON THE CONDUCT OF SUCH AUDIT OR INVESTIGATION, THE  
2 ATTORNEY GENERAL AND STATE COMPTROLLER SHALL BE PERMITTED FULL AND UNRE-  
3 STRICTED ACCESS TO ALL RECORDS, PAPERS AND ACCOUNTS OF SUCH CORPORATION,  
4 AND SHALL ALSO BE EMPOWERED TO DEPOSE UNDER OATH, ANY OFFICER, DIRECTOR  
5 OR EMPLOYEE OF SUCH CORPORATION. THE ATTORNEY GENERAL SHALL ALSO HAVE  
6 THE POWER, AS SHALL THE DISTRICT ATTORNEY OF THE COUNTY IN WHICH THE  
7 CORPORATION MAINTAINS ITS OFFICES, TO PROSECUTE ANY VIOLATION OF THIS  
8 SECTION. ANY CORPORATION FOUND TO HAVE VIOLATED THE PROVISIONS OF THIS  
9 SECTION, AND/OR ANY CORPORATION WHICH HAS AN OFFICER OR DIRECTOR FOUND  
10 GUILTY OF SECTION 490.15 OF THE PENAL LAW UPON APPLICATION TO THE  
11 SUPREME COURT BY THE ATTORNEY GENERAL OR THE DISTRICT ATTORNEY SHALL BE  
12 DEEMED IMMEDIATELY DISSOLVED, WITH ITS ASSETS IMMEDIATELY TRANSFERRED TO  
13 THE STATE OF NEW YORK, AND THE STATE COMPTROLLER UPON DEPOSITING SUCH  
14 ASSETS INTO A SEGREGATED ACCOUNT SHALL THEREUPON DISBURSE SUCH ASSETS TO  
15 OTHER CHARITABLE ORGANIZATIONS WHICH DO NOT ASSIST, FUND OR SUPPORT  
16 TERRORISM OR TERRORIST ACTIVITIES, UNLESS THE SUPREME COURT FINDS  
17 COMPELLING EVIDENCE THAT THE CORPORATION'S EXISTENCE SHOULD BE MAIN-  
18 TAINED AND THE CORPORATION HAS DEMONSTRATED THAT ALL PERSONS INVOLVED IN  
19 THE ACTIVITIES CONSTITUTING A VIOLATION OF THIS SECTION HAVE BEEN PERMA-  
20 NENTLY BARRED FROM EMPLOYMENT, ASSOCIATION, AND/OR ANY INVOLVEMENT WITH  
21 THE CORPORATION.

22 S 4. This act shall take effect January 1, 2012.