

1279--A

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. CASTELLI, BURLING, KATZ, McDONOUGH, OAKS, SALADINO, J. MILLER, McLAUGHLIN, GALEF, GIGLIO, D. MILLER, GRAF -- Multi-Sponsored by -- M. of A. BARCLAY, BLANKENBUSH, CROUCH, REILICH -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

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

55 S 3. This act shall take effect January 1, 2013.