

10053

I N A S S E M B L Y

June 10, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Brennan) --
read once and referred to the Committee on Corporations, Authorities
and Commissions

AN ACT relating to authorizing certain corporations to elect to be a
non-charitable corporation

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

1 Section 1. On or after July 1, 2014, any corporation formed pursuant
2 to chapter 880 of the laws of 1937 or chapter 124 of the laws of 1952
3 may elect, notwithstanding that it may have both charitable and business
4 purposes and notwithstanding subdivision (c) of section 201 of the not-
5 for-profit corporation law, to be a non-charitable corporation under,
6 and as defined in section 102 of the not-for-profit corporation law, by
7 providing written notice of such election to the attorney general and
8 certifying in such written notice that it is not exempt from federal
9 income tax, but rather is taxable as a corporation pursuant to the
10 United States internal revenue code of 1986, as amended, and does not
11 solicit or receive charitable contributions, or accept receipt of
12 donations of assets, for charitable purposes, as contemplated by article
13 7-A of the executive law and section 8-1.4 of the estates, powers and
14 trusts law, and regulations adopted thereunder. Every such notice shall
15 have endorsed thereon or annexed thereto the approval of a justice of
16 the supreme court of the judicial district in which the office of such
17 corporation is located. Ten days' written notice of the application for
18 such approval shall be given to the attorney general. Any such corpo-
19 ration will be subject to the provisions of section 513 and section 908
20 of the not-for-profit corporation law as a non-charitable corporation,
21 provided that no certificate shall be filed pursuant to section 908 of
22 the not-for-profit corporation law unless (a) the supreme court has
23 granted an order approving the plan of merger or consolidation and
24 authorizing the filing of the certificate as provided in section 907-a
25 of the not-for-profit corporation law as if such section applied to
26 mergers and consolidations effected pursuant to section 908 of the not-
27 for-profit corporation law, or (b) the attorney general has approved the

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

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1 plan of merger or consolidation and authorized the filing of the certif-
2 icate as provided in section 907-b of the not-for-profit corporation law
3 as if such section applied to mergers and consolidations effected pursu-
4 ant to section 908 of the not-for-profit corporation law. In addition to
5 the foregoing requirements, any such corporation shall also be subject
6 to all other provisions of articles 1, 5, 6, 7, 8, 9 and 10 of the not-
7 for-profit corporation law that would have been applicable to the corpo-
8 ration were it a charitable corporation. Nothing in this section shall
9 be deemed to modify the charter of, or prevent any future modification
10 of the charter of, any corporation formed pursuant to chapter 880 of the
11 laws of 1937 or chapter 124 of the laws of 1952, as such charter may
12 have been amended from time to time since the enactment of chapter 880
13 of the laws of 1937 or chapter 124 of the laws of 1952, as applicable.
14 S 2. This act shall take effect immediately.