S T A T E O F N E W Y O R K

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. On or after July 1, 2014, any corporation formed pursuant to chapter 880 of the laws of 1937 or chapter 124 of the laws of 1952 may elect, notwithstanding that it may have both charitable and business purposes and notwithstanding subdivision (c) of section 201 of the not-for-profit corporation law, to be a non-charitable corporation under, and as defined in section 102 of the not-for-profit corporation law, by providing written notice of such election to the attorney general and certifying in such written notice that it is not exempt from federal income tax, but rather is taxable as a corporation pursuant to the United States internal revenue code of 1986, as amended, and does not solicit or receive charitable contributions, or accept receipt of donations of assets, for charitable purposes, as contemplated by article 7-A of the executive law and section 8-1.4 of the estates, powers and trusts law, and regulations adopted thereunder. Every such notice shall have endorsed thereon or annexed thereto the approval of a justice of the supreme court of the judicial district in which the office of such corporation is located. Ten days' written notice of the application for such approval shall be given to the attorney general. Any such corporation will be subject to the provisions of section 513 and section 908 of the not-for-profit corporation law as a non-charitable corporation, provided that no certificate shall be filed pursuant to section 908 of the not-for-profit corporation law unless (a) the supreme court has granted an order approving the plan of merger or consolidation and authorizing the filing of the certificate as provided in section 907-a of the not-for-profit corporation law as if such section applied to mergers and consolidations effected pursuant to section 908 of the not-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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plan of merger or consolidation and authorized the filing of the certificate as provided in section 907-b of the not-for-profit corporation law as if such section applied to mergers and consolidations effected pursuant to section 908 of the not-for-profit corporation law. In addition to the foregoing requirements, any such corporation shall also be subject to all other provisions of articles 1, 5, 6, 7, 8, 9 and 10 of the not-for-profit corporation law that would have been applicable to the corporation were it a charitable corporation. Nothing in this section shall be deemed to modify the charter of, or prevent any future modification of the charter of, any corporation formed pursuant to chapter 880 of the laws of 1937 or chapter 124 of the laws of 1952, as such charter may have been amended from time to time since the enactment of chapter 880 of the laws of 1937 or chapter 124 of the laws of 1952, as applicable.

S 2. This act shall take effect immediately.