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

7626

2013-2014 Regular Sessions

I N A S S E M B L Y

May 28, 2013

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the business corporation law, in relation to prohibiting gifts to public officials

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

Section 1. The business corporation law is amended by adding a new section 204 to read as follows:

S 204. PROHIBITION OF GIFTS TO PUBLIC OFFICIALS.

(A) FOR THE PURPOSES OF THIS SECTION:

(1) THE TERMS "GIFT" AND "PUBLIC OFFICIAL" SHALL HAVE THE SAME MEANING AS THOSE TERMS ARE DEFINED IN THE LEGISLATIVE LAW, EXCEPT THAT THE TERM "GIFT", IN ADDITION TO THE DEFINITION SET FORTH IN THE LEGISLATIVE LAW, SHALL INCLUDE ANY PRIVILEGES, BENEFITS OR RIGHTS THAT ARE OFFERED, PROVIDED OR MADE AVAILABLE TO A PUBLIC OFFICIAL BUT NOT TO THE GENERAL PUBLIC.

(2) THE TERM "PUBLIC FINANCING" SHALL INCLUDE, BUT NOT BE LIMITED TO, STATE OR LOCAL GRANTS, SUBSIDIES, TAX EXEMPTIONS OR CREDITS, TAX ABATEMENTS, PAYMENTS IN LIEU OF TAXES, AND ANY DEBT ISSUED BY A STATE OR LOCAL AGENCY, A PUBLIC AUTHORITY OR A PUBLIC BENEFIT CORPORATION.

(B)(1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO DOMESTIC CORPORATION, FOREIGN CORPORATION, OR ANY SUBSIDIARY OF SUCH CORPORATION WHICH (I) IS AUTHORIZED TO DO OR DOES BUSINESS IN THIS STATE AND (II) RECEIVES DIRECTLY OR INDIRECTLY ANY FORM OR TYPE OF PUBLIC FINANCING SHALL OFFER, GIVE OR PROVIDE A GIFT TO ANY PUBLIC OFFICIAL.

(2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT OR PREVENT A CORPORATION FROM OFFERING, GIVING OR PROVIDING GOODS OR SERVICES TO A PUBLIC OFFICIAL ON THE SAME TERMS AND CONDITIONS AS GOODS OR SERVICES ARE OFFERED OR PROVIDED TO THE GENERAL PUBLIC.

(C)(1) ANY CORPORATION THAT VIOLATES ANY PROVISIONS OF THIS SECTION AND

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

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(I) GENERATES ANNUAL GROSS REVENUES OF LESS THAN ONE MILLION DOLLARS SHALL BE SUBJECT TO A FINE OF UP TO FIVE THOUSAND DOLLARS;

(II) GENERATES ANNUAL GROSS REVENUES OF BETWEEN ONE AND FIVE MILLION DOLLARS SHALL BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS BUT NOT LESS THAN FIVE THOUSAND DOLLARS;

(III) GENERATES ANNUAL GROSS REVENUES OF MORE THAN FIVE MILLION DOLLARS BUT LESS THAN TEN MILLION DOLLARS SHALL BE SUBJECT TO A FINE OF UP TO FIFTY THOUSAND DOLLARS BUT NOT LESS THAN TEN THOUSAND DOLLARS; AND

(IV) GENERATES ANNUAL GROSS REVENUES OF MORE THAN TEN MILLION DOLLARS SHALL BE SUBJECT TO A FINE OF UP TO TWO HUNDRED AND FIFTY THOUSAND DOLLARS BUT NOT LESS THAN FIFTY THOUSAND DOLLARS;

(2) ANY DIRECTOR OR OFFICER WHO KNOWINGLY VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR, AND SHALL BE SUBJECT TO A MONETARY FINE OF UP TO SIX TIMES THE VALUE OF THE GIFT.

(D) THE NEW YORK STATE ATTORNEY GENERAL SHALL BE EMPOWERED AND AUTHORIZED TO ENFORCE COMPLIANCE WITH THIS SECTION, INCLUDING IMPOSING THE APPROPRIATE PENALTIES ON THOSE PARTIES WHO ARE FOUND TO HAVE VIOLATED THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.