

86--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Election Law -- recommitted to the Committee on Election Law 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 election law, in relation to establishing new contribution limits, expanding the types of organizations prohibited from making contributions and aggregating certain contributions

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

1 Section 1. Section 14-100 of the election law is amended by adding
2 three new subdivisions 12, 13 and 14 to read as follows:
3 12. "RELATED LIMITED LIABILITY COMPANY" MEANS A LIMITED LIABILITY
4 COMPANY THAT IS AN AFFILIATE OF A CORPORATION WITHIN THE MEANING OF
5 PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPORATION
6 LAW. AS USED IN THIS ARTICLE, CORPORATION MEANS BOTH A FOR-PROFIT CORPORATION
7 WITHIN THE MEANING OF SUBPARAGRAPH FOUR OF PARAGRAPH (A) OF
8 SECTION ONE HUNDRED TWO OF THE BUSINESS CORPORATION LAW AS WELL AS A
9 NONPROFIT CORPORATION WITHIN THE MEANING OF SUBPARAGRAPH FIVE OF PARAGRAPH (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION
10 LAW.
11 13. (1) "RELATED LIMITED LIABILITY PARTNERSHIP," CONSISTENT WITH
12 SECTION TEN OF THE PARTNERSHIP LAW, MEANS, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES, A PARTNERSHIP (I) FORMED BY TWO OR MORE PERSONS PURSUANT TO
14 THE PARTNERSHIP LAW OR WHICH COMPLIES WITH SUBDIVISION (A) OF SECTION
15 121-1202 OF THE PARTNERSHIP LAW AND (II) HAVING ONE OR MORE GENERAL
16 PARTNERS AND ONE OR MORE LIMITED PARTNERS, WHICH (A) IS NOT A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION, (B) IS AFFILIATED WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE
17 LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN

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

LBD00300-03-4

1 PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNER-
2 SHIP THAT IS A PROFESSIONAL PARTNERSHIP UNDER THIS SECTION OR A FOREIGN
3 LIMITED LIABILITY PARTNERSHIP UNDER CLAUSE (I) OR (II) OF THE EIGHTH
4 UNDESIGNATED PARAGRAPH OF SECTION TWO OF THE PARTNERSHIP LAW, AND (C)
5 RENDERS SERVICES RELATED OR COMPLEMENTARY TO THE PROFESSIONAL SERVICES
6 RENDERED BY, OR PROVIDES SERVICES OR FACILITIES TO, SUCH PROFESSIONAL
7 SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFESSIONAL SERVICE LIMITED
8 LIABILITY COMPANY, PROFESSIONAL SERVICE CORPORATION, FOREIGN PROFES-
9 SIONAL SERVICE CORPORATION, REGISTERED LIMITED LIABILITY PARTNERSHIP OR
10 FOREIGN LIMITED LIABILITY PARTNERSHIP.

11 (2) FOR PURPOSES OF THIS SUBDIVISION, SUCH A PARTNERSHIP IS AFFILIATED
12 WITH A PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, FOREIGN PROFES-
13 SIONAL SERVICE LIMITED LIABILITY COMPANY, PROFESSIONAL SERVICE CORPO-
14 RATION, FOREIGN PROFESSIONAL SERVICE CORPORATION, REGISTERED LIMITED
15 LIABILITY PARTNERSHIP OR FOREIGN LIMITED LIABILITY PARTNERSHIP IF (A) AT
16 LEAST A MAJORITY OF PARTNERS IN ONE PARTNERSHIP ARE PARTNERS IN THE
17 OTHER PARTNERSHIP, (B) AT LEAST A MAJORITY OF THE PARTNERS IN EACH PART-
18 NERSHIP ALSO ARE PARTNERS, HOLD INTERESTS OR ARE MEMBERS IN A LIMITED
19 LIABILITY COMPANY OR OTHER BUSINESS ENTITY, AND EACH PARTNERSHIP RENDERS
20 SERVICES PURSUANT TO AN AGREEMENT WITH SUCH LIMITED LIABILITY COMPANY OR
21 OTHER BUSINESS ENTITY, OR (C) THE PARTNERSHIPS OR THE PARTNERSHIP AND
22 SUCH PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH FOREIGN
23 PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY, SUCH PROFESSIONAL
24 SERVICE CORPORATION, OR SUCH FOREIGN PROFESSIONAL SERVICE CORPORATION
25 ARE AFFILIATES WITHIN THE MEANING OF PARAGRAPH (A) OF SECTION NINE
26 HUNDRED TWELVE OF THE BUSINESS CORPORATION LAW.

27 14. "SINGLE SOURCE" MEANS ANY PERSON, PERSONS IN COMBINATION, OR ENTI-
28 TY WHO OR WHICH ESTABLISHES, MAINTAINS, OR CONTROLS ANOTHER ENTITY AND
29 EVERY ENTITY SO ESTABLISHED, MAINTAINED, OR CONTROLLED, INCLUDING EVERY
30 POLITICAL COMMITTEE ESTABLISHED, MAINTAINED, OR CONTROLLED BY THE SAME
31 PERSON, PERSONS IN COMBINATION, OR ENTITY. IF A CANDIDATE ACCEPTS MORE
32 THAN ONE CONTRIBUTION FROM A SINGLE SOURCE, THE CONTRIBUTIONS SHALL BE
33 TOTALED TO DETERMINE THE CANDIDATE'S COMPLIANCE WITH THE APPLICABLE
34 CONTRIBUTION LIMIT. A GENERAL PARTNER OR GENERAL MANAGER AND EACH PART-
35 NERSHIP AND LIMITED LIABILITY COMPANY IT CONTROLS SHALL BE PRESUMED, IN
36 THE ABSENCE OF EVIDENCE DEMONSTRATING THE CONTRARY, TO BE A SINGLE
37 SOURCE FOR THE PURPOSE OF COMPLIANCE WITH THE APPLICABLE CONTRIBUTION
38 LIMIT.

39 S 2. Subdivisions 1 and 2 of section 14-116 of the election law,
40 subdivision 1 as redesignated by chapter 9 of the laws of 1978 and
41 subdivision 2 as amended by chapter 260 of the laws of 1981, are amended
42 and a new subdivision 3 is added to read as follows:

43 1. No corporation [or], joint-stock association, LIMITED LIABILITY
44 COMPANY, PROFESSIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED
45 LIABILITY PARTNERSHIP doing business in this state, except [a corpo-
46 ration or association] AN ENTITY organized or maintained for political
47 purposes only, shall directly or indirectly pay or use or offer, consent
48 or agree to pay or use any money or property for or in aid of any poli-
49 tical party, committee or organization, or for, or in aid of, any
50 [corporation, joint-stock or other association] ENTITY organized or
51 maintained for political purposes, or for, or in aid of, any candidate
52 for political office or for nomination for such office, or for any poli-
53 tical purpose whatever, or for the reimbursement or indemnification of
54 any person for moneys or property so used. Any officer, director, stock-
55 holder, MEMBER, PARTNER, attorney or agent of any corporation [or],
56 joint-stock association, LIMITED LIABILITY COMPANY, PROFESSIONAL LIMITED

1 LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PARTNERSHIP which
2 violates any of the provisions of this section, who participates in,
3 aids, abets or advises or consents to any such violations, and any
4 person who solicits or knowingly receives any money or property in
5 violation of this section, shall be guilty of a misdemeanor.

6 2. Notwithstanding the provisions of subdivision one of this section,
7 any corporation or an organization financially supported in whole or in
8 part, by such corporation, OR ANY LIMITED LIABILITY COMPANY, PROFES-
9 SIONAL LIMITED LIABILITY COMPANY, PARTNERSHIP OR LIMITED LIABILITY PART-
10 NERSHIP may make expenditures, including contributions, not otherwise
11 prohibited by law, for political purposes, in an amount not to exceed
12 five thousand dollars in the aggregate in any calendar year; provided
13 that no public utility shall use revenues received from the rendition of
14 public service within the state for contributions for political purposes
15 unless such cost is charged to the shareholders of such a public service
16 corporation.

17 3. FOR THE PURPOSES OF SUBDIVISION TWO OF THIS SECTION, ALL OF THE
18 COMPONENT MEMBERS OF A CONTROLLED GROUP OF CORPORATIONS WITHIN THE MEAN-
19 ING OF SECTION ONE THOUSAND FIVE HUNDRED SIXTY-THREE OF THE INTERNAL
20 REVENUE CODE OF THE UNITED STATES SHALL BE DEEMED TO BE ONE CORPORATION,
21 AND PROVIDED FURTHER, CONTRIBUTIONS GIVEN BY A SUBSIDIARY OF A CORPO-
22 RATION THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, A
23 RELATED LIMITED LIABILITY PARTNERSHIP THAT IS WHOLLY OR IN PART
24 CONTROLLED BY THE CORPORATION, OR A RELATED LIMITED LIABILITY COMPANY
25 THAT IS WHOLLY OR IN PART CONTROLLED BY THE CORPORATION, ARE DEEMED TO
26 BE A CONTRIBUTION BY THE CORPORATION. ALL SINGLE SOURCES OF CONTRIB-
27 UTIONS, INCLUDING FROM AFFILIATED CORPORATE ENTITIES, WITHIN THE MEANING
28 OF PARAGRAPH (A) OF SECTION NINE HUNDRED TWELVE OF THE BUSINESS CORPO-
29 RATION LAW, TOGETHER MAY MAKE CONTRIBUTIONS, NOT OTHERWISE PROHIBITED BY
30 LAW, FOR POLITICAL PURPOSES, IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND
31 DOLLARS IN THE AGGREGATE IN ANY CALENDAR YEAR.

32 S 3. Subdivision 2 of section 14-120 of the election law, as added by
33 chapter 79 of the laws of 1992, is amended and a new subdivision 3 is
34 added to read as follows:

35 2. Notwithstanding subdivision one of this section, a partnership, as
36 defined in section ten of the partnership law, [may be considered a
37 separate entity for the purposes of this section, and as such] may make
38 contributions in the name of said partnership without attributing such
39 contributions to the individual members of the partnership provided that
40 any such contribution made by a partnership to a candidate or to a poli-
41 tical committee, shall not exceed[, twenty-five hundred dollars. In the
42 event that such partnership contribution to any such candidate or poli-
43 tical committee exceeds twenty-five hundred dollars, the aggregate
44 amount of such contribution shall be attributed to each partner whose
45 share of the contribution exceeds ninety-nine dollars] FIVE THOUSAND
46 DOLLARS. ANY PARTNERSHIP THAT IS RELATED TO A CORPORATION WILL HAVE ITS
47 CONTRIBUTIONS AGGREGATED WITH THAT RELATED CORPORATION FOR THE PURPOSES
48 OF CALCULATING THE CONTRIBUTIONS GIVEN. INDIVIDUALS MAY NOT ESTABLISH A
49 PARTNERSHIP, AS DEFINED IN SECTION TEN OF THE PARTNERSHIP LAW, FOR THE
50 PURPOSE OF EVADING THE CONTRIBUTION LIMITS THAT WOULD OTHERWISE APPLY TO
51 SUCH INDIVIDUAL.

52 3. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, EVERY CONTRIBUTION
53 MADE BY A LIMITED LIABILITY COMPANY IS CONSIDERED TO BE A CONTRIBUTION
54 BY THE LIMITED LIABILITY COMPANY AS A WHOLE. INDIVIDUALS MAY NOT ESTAB-
55 LISH A LIMITED LIABILITY COMPANY FOR THE PURPOSE OF EVADING THE CONTRIB-
56 UTION LIMITS THAT WOULD OTHERWISE APPLY TO SUCH INDIVIDUAL.

1 S 4. Severability. If any clause, sentence, paragraph, section or part
2 of this act shall be adjudged by any court of competent jurisdiction to
3 be invalid and after exhaustion of all further judicial review, the
4 judgment shall not affect, impair or invalidate the remainder thereof,
5 but shall be confined in its operation to the clause, sentence, para-
6 graph, section or part of this act directly involved in the controversy
7 in which the judgment shall have been rendered.

8 S 5. This act shall take effect January 1, 2015; provided that
9 contributions legally received prior to the effective date of this act
10 may be retained and expended for lawful purposes and shall not provide
11 the basis for a violation of article 14 of the election law, as amended
12 by this act; and provided, further, that the state board of elections
13 shall notify all candidates and political committees of the applicable
14 provisions of this act within thirty days after this act shall have
15 become a law.