

86--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 9, 2013

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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.