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

4463--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 5, 2013

Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations 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 executive law and the estates, powers and trusts law, in relation to providing for the issuance of a certificate of ethics course completion to professional fundraisers and charitable organizations who complete a course of instruction in the law and ethics of fundraising; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The executive law is amended by adding a new section 178 to read as follows:

S 178. COURSE OF INSTRUCTION IN THE LAW OF ETHICS IN FUNDRAISING AND PHILANTHROPY, AND NOT-FOR-PROFIT CORPORATION GOVERNANCE. 1. ANY PROFESSIONAL FUNDRAISER, PROFESSIONAL SOLICITOR OR FUNDRAISING COUNSEL, WHO IS AN INDIVIDUAL AND IS REQUIRED TO REGISTER PURSUANT TO SECTION ONE HUNDRED SEVENTY-THREE OF THIS ARTICLE, WHO SHALL HAVE COMPLETED AN ACCEPTABLE FUNDRAISING ETHICS COURSE SHALL BE ENTITLED TO A WAIVER OF THE ANNUAL REGISTRATION FEE BY THE ATTORNEY GENERAL FOR THE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED. SUCH INDIVIDUALS SHALL VERIFY ON THEIR REGISTRATION OR RE-REGISTRATION FORM THAT THEY HAVE COMPLETED SUCH COURSE AND SHALL PROVIDE A COPY OF THE CERTIFICATE OF COMPLETION AT THE REQUEST OF THE ATTORNEY GENERAL.

2. ANY CHARITABLE ORGANIZATION REQUIRED TO REGISTER PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THIS ARTICLE WHOSE VOLUNTEERS OR EMPLOYEES RESPONSIBLE FOR THE HIRING, TRAINING OR SUPERVISION OF EMPLOYEES ENGAGED IN THE FUNDRAISING ACTIVITIES OF THE CHARITABLE ORGANIZATION COMPLETE AN ACCEPTABLE FUNDRAISING ETHICS COURSE, SHALL BE ENTITLED TO A

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

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WAVIER OF THE ANNUAL REGISTRATION FEES REQUIRED BY THIS ARTICLE IN THE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED BY SUCH VOLUNTEERS OR EMPLOYEES. SUCH CHARITABLE ORGANIZATION SHALL VERIFY ON ITS REGISTRATION OR RE-REGISTRATION FORM THAT SUCH VOLUNTEERS OR EMPLOYEES HAVE COMPLETED SUCH COURSE AND SHALL PROVIDE A COPY OF A CERTIFICATE OF COMPLETION OF SUCH A COURSE TO THE ATTORNEY GENERAL UPON THE REQUEST OF THE DEPARTMENT OF LAW.

3. ANY CHARITABLE ORGANIZATION REQUIRED TO REGISTER PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THIS ARTICLE THAT IS AFFILIATED WITH A DIRECTOR OR EMPLOYS A KEY EMPLOYEE, AS SUCH TERMS ARE DEFINED IN SUBDIVISION (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW, WHO COMPLETES AN ACCEPTABLE FUNDRAISING ETHICS COURSE OR ACCEPTABLE GOVERNANCE COURSE, SHALL BE ENTITLED TO A WAIVER OF THE ANNUAL REGISTRATION FEES REQUIRED BY THIS ARTICLE IN THE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED BY SUCH VOLUNTEERS OR EMPLOYEES. SUCH CHARITABLE ORGANIZATION SHALL VERIFY ON ITS REGISTRATION OR RE-REGISTRATION FORM THAT SUCH DIRECTORS OR KEY EMPLOYEES HAVE COMPLETED ANY SUCH COURSE AND SHALL PROVIDE A COPY OF A CERTIFICATE OF COMPLETION OF SUCH A COURSE TO THE ATTORNEY GENERAL UPON THE REQUEST OF THE DEPARTMENT OF LAW.

4. A PERSON OR ORGANIZATION SHALL BE ELIGIBLE FOR ONLY ONE FEE WAIVER DURING ANY THREE YEAR PERIOD PURSUANT TO THIS SECTION.

5. (A) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE FUNDRAISING ETHICS COURSE" SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH, APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTORNEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF FUNDRAISING AND PHILANTHROPY.

(B) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE GOVERNANCE COURSE" SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH, APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTORNEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF NOT-FOR-PROFIT CORPORATION GOVERNANCE.

(C) UNIVERSITIES AND COLLEGES STATEWIDE, AND PROFESSIONAL TRADE ASSOCIATIONS THAT ESTABLISH PROFESSIONAL STANDARDS AND PROVIDE TRAINING AND RESOURCES FOR INDIVIDUALS ENGAGING IN PROFESSIONAL FUNDRAISING OR NOT-FOR-PROFIT CORPORATE GOVERNANCE MAY OFFER ANY COURSE DESCRIBED IN THIS SUBDIVISION THROUGH CLASSROOM TRAINING AND/OR BY DISTANCE LEARNING, AND SHALL PROVIDE A CERTIFICATE OF COMPLETION TO THOSE WHO COMPLETE ANY SUCH COURSE. ANY PERSON TAKING SUCH A COURSE MAY ELECT TO DO SO BY EITHER METHOD OFFERED.

S 2. Section 8-1.4 of the estates, powers and trusts law is amended by adding a new paragraph (t) to read as follows:

(T) (1) ANY ORGANIZATION REQUIRED TO FILE A PERIODIC REPORT PURSUANT TO THIS ARTICLE AND REGISTER PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THE EXECUTIVE LAW (A) THAT HAS A DIRECTOR OR KEY EMPLOYEE, AS SUCH TERMS ARE DEFINED IN SUBDIVISION (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW, WHO HAS COMPLETED AN ACCEPTABLE FUNDRAISING ETHICS COURSE OR ACCEPTABLE GOVERNANCE COURSE, (B) THAT ENGAGES, RETAINS OR CONTRACTS WITH A PROFESSIONAL FUNDRAISER, PROFESSIONAL SOLICITOR OR FUNDRAISING COUNSEL, WHO IS AN INDIVIDUAL, HAS REGISTERED PURSUANT TO SECTION ONE HUNDRED SEVENTY-THREE OF THE EXECUTIVE LAW, AND HAS COMPLETED AN ACCEPTABLE FUNDRAISING ETHICS COURSE, OR (C) WHOSE VOLUNTEERS OR EMPLOYEES RESPONSIBLE FOR THE HIRING, TRAINING OR SUPERVISION OF EMPLOYEES ENGAGED IN THE FUNDRAISING ACTIVITIES OF THE CHARITABLE ORGANIZATION COMPLETE AN ACCEPTABLE FUNDRAISING ETHICS COURSE, SHALL BE ENTITLED TO A WAIVER OF THE FEE REQUIRED BY PARAGRAPH

(P) OF THIS SECTION IN THE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED BY SUCH DIRECTORS OR KEY EMPLOYEES. SUCH ORGANIZATION SHALL VERIFY ON THE PERIODIC FILING OF SUCH ORGANIZATION THAT THE APPROPRIATE PERSONS EMPLOYED BY OR AFFILIATED WITH SUCH ORGANIZATION HAVE COMPLETED ANY SUCH COURSE AND SHALL PROVIDE A COPY OF A CERTIFICATE OF COMPLETION OF SUCH COURSE TO THE ATTORNEY GENERAL UPON THE REQUEST OF THE DEPARTMENT OF LAW. A PERSON OR ORGANIZATION SHALL BE ELIGIBLE FOR ONLY ONE FEE WAIVER DURING ANY THREE YEAR PERIOD PURSUANT TO THIS PARAGRAPH.

(2)(A) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE FUNDRAISING ETHICS COURSE" SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH, APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTORNEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF FUNDRAISING AND PHILANTHROPY.

(B) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE GOVERNANCE COURSE" SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH, APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTORNEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF NOT-FOR-PROFIT CORPORATION GOVERNANCE.

(C) UNIVERSITIES AND COLLEGES STATEWIDE, AND PROFESSIONAL TRADE ASSOCIATIONS THAT ESTABLISH PROFESSIONAL STANDARDS AND PROVIDE TRAINING AND RESOURCES FOR INDIVIDUALS ENGAGING IN PROFESSIONAL FUNDRAISING OR NOT-FOR-PROFIT CORPORATE GOVERNANCE MAY OFFER ANY COURSE DESCRIBED IN THIS PARAGRAPH THROUGH CLASSROOM TRAINING AND/OR BY DISTANCE LEARNING, AND SHALL PROVIDE A CERTIFICATE OF COMPLETION TO THOSE WHO COMPLETE ANY SUCH COURSE. ANY PERSON TAKING SUCH A COURSE MAY ELECT TO DO SO BY EITHER METHOD OFFERED.

S 3. The department of education shall establish regulations to ensure the quality of the courses offered by distance learning, the satisfaction of course attendance or participation requirements, and the proper keeping of records related to such attendance or participation for courses offered pursuant to paragraph (c) of subdivision 5 of section 178 of the executive law and clause (C) of subparagraph 2 of paragraph (t) of section 8-1.4 of the estates, powers and trusts law.

S 4. The attorney general shall issue a report to the governor, the temporary president of the senate and the speaker of the assembly six years after the effective date of this act that shall include a statement of the number of persons and organizations that were granted a waiver of fee pursuant to this act and the number of persons having completed an acceptable course for the purpose of obtaining such a waiver, and a statement by the attorney general as to the efficacy of the provisions of section one of this act in promoting the understanding of, and adherence to, the law and ethics of fundraising and philanthropy and the law of the governance of not-for-profit organizations. Such report shall also include a description of acceptable not-for-profit fundraising and governance ethics curricula, an assessment of the adequacy of the availability of acceptable courses statewide and registrant satisfaction with such courses, and recommendations with respect to developing legislation mandating the completion of such courses by professional fundraisers, professional solicitors, fundraising counsels, key employees of charitable organizations, or volunteers or employees responsible for the hiring, training or supervision of employees engaged in the fundraising activities of the charitable organization.

S 5. This act shall take effect April 1, 2015; provided that sections one, two and three of this act shall expire and be deemed repealed March 31, 2021.