

4887

2015-2016 Regular Sessions

I N   A S S E M B L Y

February 9, 2015

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

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:

1     Section 1. The executive law is amended by adding a new section 178 to  
2     read as follows:  
3     S 178. COURSE OF INSTRUCTION IN THE LAW OF ETHICS IN FUNDRAISING AND  
4     PHILANTHROPY, AND NOT-FOR-PROFIT CORPORATION GOVERNANCE. 1. ANY PROFES-  
5     SIONAL FUNDRAISER, PROFESSIONAL SOLICITOR OR FUNDRAISING COUNSEL, WHO IS  
6     AN INDIVIDUAL AND IS REQUIRED TO REGISTER PURSUANT TO SECTION ONE  
7     HUNDRED SEVENTY-THREE OF THIS ARTICLE, WHO SHALL HAVE COMPLETED AN  
8     ACCEPTABLE FUNDRAISING ETHICS COURSE SHALL BE ENTITLED TO A WAIVER OF  
9     THE ANNUAL REGISTRATION FEE BY THE ATTORNEY GENERAL FOR THE YEAR IMME-  
10     DIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED. SUCH  
11     INDIVIDUALS SHALL VERIFY ON THEIR REGISTRATION OR RE-REGISTRATION FORM  
12     THAT THEY HAVE COMPLETED SUCH COURSE AND SHALL PROVIDE A COPY OF THE  
13     CERTIFICATE OF COMPLETION AT THE REQUEST OF THE ATTORNEY GENERAL.  
14     2. ANY CHARITABLE ORGANIZATION REQUIRED TO REGISTER PURSUANT TO  
15     SECTION ONE HUNDRED SEVENTY-TWO OF THIS ARTICLE WHOSE VOLUNTEERS OR  
16     EMPLOYEES RESPONSIBLE FOR THE HIRING, TRAINING OR SUPERVISION OF EMPLOY-  
17     EES ENGAGED IN THE FUNDRAISING ACTIVITIES OF THE CHARITABLE ORGANIZATION  
18     COMPLETE AN ACCEPTABLE FUNDRAISING ETHICS COURSE, SHALL BE ENTITLED TO A  
19     WAIVER OF THE ANNUAL REGISTRATION FEES REQUIRED BY THIS ARTICLE IN THE  
20     YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED  
21     BY SUCH VOLUNTEERS OR EMPLOYEES. SUCH CHARITABLE ORGANIZATION SHALL

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

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1 VERIFY ON ITS REGISTRATION OR RE-REGISTRATION FORM THAT SUCH VOLUNTEERS  
2 OR EMPLOYEES HAVE COMPLETED SUCH COURSE AND SHALL PROVIDE A COPY OF A  
3 CERTIFICATE OF COMPLETION OF SUCH A COURSE TO THE ATTORNEY GENERAL UPON  
4 THE REQUEST OF THE DEPARTMENT OF LAW.

5 3. ANY CHARITABLE ORGANIZATION REQUIRED TO REGISTER PURSUANT TO  
6 SECTION ONE HUNDRED SEVENTY-TWO OF THIS ARTICLE THAT IS AFFILIATED WITH  
7 A DIRECTOR OR EMPLOYS A KEY EMPLOYEE, AS SUCH TERMS ARE DEFINED IN  
8 SUBDIVISION (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPO-  
9 RATION LAW, WHO COMPLETES AN ACCEPTABLE FUNDRAISING ETHICS COURSE OR  
10 ACCEPTABLE GOVERNANCE COURSE, SHALL BE ENTITLED TO A WAIVER OF THE ANNU-  
11 AL REGISTRATION FEES REQUIRED BY THIS ARTICLE IN THE YEAR IMMEDIATELY  
12 FOLLOWING THE YEAR IN WHICH SUCH COURSE WAS COMPLETED BY SUCH VOLUNTEERS  
13 OR EMPLOYEES. SUCH CHARITABLE ORGANIZATION SHALL VERIFY ON ITS REGISTRA-  
14 TION OR RE-REGISTRATION FORM THAT SUCH DIRECTORS OR KEY EMPLOYEES HAVE  
15 COMPLETED ANY SUCH COURSE AND SHALL PROVIDE A COPY OF A CERTIFICATE OF  
16 COMPLETION OF SUCH A COURSE TO THE ATTORNEY GENERAL UPON THE REQUEST OF  
17 THE DEPARTMENT OF LAW.

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

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

25 (B) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE GOVERNANCE COURSE"  
26 SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH,  
27 APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTOR-  
28 NEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF NOT-FOR-PROFIT CORPO-  
29 RATION GOVERNANCE.

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

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

40 (T) (1) ANY ORGANIZATION REQUIRED TO FILE A PERIODIC REPORT PURSUANT  
41 TO THIS ARTICLE AND REGISTER PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO  
42 OF THE EXECUTIVE LAW (A) THAT HAS A DIRECTOR OR KEY EMPLOYEE, AS SUCH  
43 TERMS ARE DEFINED IN SUBDIVISION (A) OF SECTION ONE HUNDRED TWO OF THE  
44 NOT-FOR-PROFIT CORPORATION LAW, WHO HAS COMPLETED AN ACCEPTABLE  
45 FUNDRAISING ETHICS COURSE OR ACCEPTABLE GOVERNANCE COURSE, (B) THAT  
46 ENGAGES, RETAINS OR CONTRACTS WITH A PROFESSIONAL FUNDRAISER, PROFES-  
47 SIONAL SOLICITOR OR FUNDRAISING COUNSEL, WHO IS AN INDIVIDUAL, HAS  
48 REGISTERED PURSUANT TO SECTION ONE HUNDRED SEVENTY-THREE OF THE EXECU-  
49 TIVE LAW, AND HAS COMPLETED AN ACCEPTABLE FUNDRAISING ETHICS COURSE, OR  
50 (C) WHOSE VOLUNTEERS OR EMPLOYEES RESPONSIBLE FOR THE HIRING, TRAINING  
51 OR SUPERVISION OF EMPLOYEES ENGAGED IN THE FUNDRAISING ACTIVITIES OF THE  
52 CHARITABLE ORGANIZATION COMPLETE AN ACCEPTABLE FUNDRAISING ETHICS  
53 COURSE, SHALL BE ENTITLED TO A WAIVER OF THE FEE REQUIRED BY PARAGRAPH  
54 (P) OF THIS SECTION IN THE YEAR IMMEDIATELY FOLLOWING THE YEAR IN WHICH  
55 SUCH COURSE WAS COMPLETED BY SUCH DIRECTORS OR KEY EMPLOYEES. SUCH  
56 ORGANIZATION SHALL VERIFY ON THE PERIODIC FILING OF SUCH ORGANIZATION

1 THAT THE APPROPRIATE PERSONS EMPLOYED BY OR AFFILIATED WITH SUCH ORGAN-  
2 IZATION HAVE COMPLETED ANY SUCH COURSE AND SHALL PROVIDE A COPY OF A  
3 CERTIFICATE OF COMPLETION OF SUCH COURSE TO THE ATTORNEY GENERAL UPON  
4 THE REQUEST OF THE DEPARTMENT OF LAW. A PERSON OR ORGANIZATION SHALL BE  
5 ELIGIBLE FOR ONLY ONE FEE WAIVER DURING ANY THREE YEAR PERIOD PURSUANT  
6 TO THIS PARAGRAPH.

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

12 (B) FOR THE PURPOSE OF THIS SECTION, "ACCEPTABLE GOVERNANCE COURSE"  
13 SHALL MEAN A COURSE OF INSTRUCTION, OF AT LEAST THREE HOURS IN LENGTH,  
14 APPROVED BY THE DEPARTMENT OF EDUCATION IN CONSULTATION WITH THE ATTOR-  
15 NEY GENERAL, IN RELATION TO THE LAW AND ETHICS OF NOT-FOR-PROFIT CORPO-  
16 RATION GOVERNANCE.

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

25 S 3. The department of education shall establish regulations to ensure  
26 the quality of the courses offered by distance learning, the satisfac-  
27 tion of course attendance or participation requirements, and the proper  
28 keeping of records related to such attendance or participation for  
29 courses offered pursuant to paragraph (c) of subdivision 5 of section  
30 178 of the executive law and clause (C) of subparagraph 2 of paragraph  
31 (t) of section 8-1.4 of the estates, powers and trusts law.

32 S 4. The attorney general shall issue a report to the governor, the  
33 temporary president of the senate and the speaker of the assembly six  
34 years after the effective date of this act that shall include a state-  
35 ment of the number of persons and organizations that were granted a  
36 waiver of fee pursuant to this act and the number of persons having  
37 completed an acceptable course for the purpose of obtaining such a waiv-  
38 er, and a statement by the attorney general as to the efficacy of the  
39 provisions of section one of this act in promoting the understanding of,  
40 and adherence to, the law and ethics of fundraising and philanthropy and  
41 the law of the governance of not-for-profit organizations. Such report  
42 shall also include a description of acceptable not-for-profit fundrais-  
43 ing and governance ethics curricula, an assessment of the adequacy of  
44 the availability of acceptable courses statewide and registrant satis-  
45 faction with such courses, and recommendations with respect to develop-  
46 ing legislation mandating the completion of such courses by professional  
47 fundraisers, professional solicitors, fundraising counsels, key employ-  
48 ees of charitable organizations, or volunteers or employees responsible  
49 for the hiring, training or supervision of employees engaged in the  
50 fundraising activities of the charitable organization.

51 S 5. This act shall take effect April 1, 2016; provided that sections  
52 one, two and three of this act shall expire and be deemed repealed March  
53 31, 2021.