

# STATE OF NEW YORK

87

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. PERRY, SIMOTAS -- read once and referred to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law and the executive law, in relation to requiring not-for-profit and exempt organizations and trustees to report annually whether or not moneys were spent to pay judgments or settle accusations related to harassment, assault or abuse allegedly committed by officers, directors, employees or agents of the organizations or trustees

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 8-1.4 of the estates, powers and trusts law is  
2 amended by adding a new paragraph (t) to read as follows:

3 (t) (1) Notwithstanding the exemptions from the registration and  
4 reporting provisions of this section specified in paragraph (b) of this  
5 section, the provisions of this paragraph shall apply to a designated  
6 "trustee", as defined in paragraph (a) of this section, except to the  
7 extent, if any, that the application of this paragraph to any particular  
8 trustee is found by the final judgment of a court of competent jurisdic-  
9 tion, after any and all appeals have been exhausted, to be violative of  
10 the federal or state constitution.

11 (2) A designated trustee shall file annually with the attorney general  
12 on a form prescribed by the attorney general and on such date or dates  
13 as the attorney general shall require, a disclosure statement, setting  
14 forth under the penalties of perjury whether or not any of the funds  
15 entrusted to such board of trustees or designated trustee were expended  
16 during the immediately preceding fiscal year covered by such statement  
17 for the purpose of satisfying any judgment or paying the amount of any  
18 settlement related to one or more allegations of sexual harassment,  
19 sexual assault, or child abuse committed by an officer, director,  
20 employee or agent of the board of trustees or a designated trustee. A

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

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1 trustee otherwise required to file an annual financial report pursuant  
2 to this section or section one hundred seventy-two-b of the executive  
3 law shall satisfy the filing requirement of this paragraph by including  
4 such annual disclosure statement with the filing of the trustee's annual  
5 financial report or as a part of the trustee's annual financial report.  
6 The failure to file or timely file such annual disclosure statement or  
7 to include it as a part of the trustee's annual financial report as  
8 permitted herein shall subject the trustee in default to the same fines  
9 and penalties as those that are applicable to failure by a trustee to  
10 file or timely file the trustee's annual financial report.

11 § 2. Section 172-b of the executive law is amended by adding a new  
12 subdivision 9 to read as follows:

13 9. (a) Notwithstanding the exemptions from the registration and  
14 reporting provisions of this article specified in section one hundred  
15 seventy-two-a of this article, the provisions of this subdivision shall  
16 apply to all "charitable organizations" defined in section one hundred  
17 seventy-one-a of this article and to all entities otherwise exempted  
18 from this article that are enumerated in section one hundred seventy-  
19 two-a of this article, except to the extent, if any, that the applica-  
20 tion of this subdivision to any particular charitable organization is  
21 found by the final judgment of a court of competent jurisdiction, after  
22 any and all appeals have been exhausted, to be violative of the federal  
23 or state constitution.

24 (b) Every charitable organization and every entity that is otherwise  
25 exempted from the application of this article by section one hundred  
26 seventy-two-a of this article shall file annually with the attorney  
27 general on a form prescribed by the attorney general and on such date or  
28 dates as the attorney general shall require, a disclosure statement,  
29 setting forth under the penalties of perjury whether or not any of the  
30 funds entrusted to such charitable organization or exempted entity were  
31 expended during the immediately preceding fiscal year covered by such  
32 statement for the purpose of satisfying any judgment or paying the  
33 amount of any settlement related to one or more allegations of sexual  
34 harassment, sexual assault, or child abuse committed by an officer,  
35 director, employee or agent of the charitable organization or exempted  
36 entity. A charitable organization otherwise required to file an annual  
37 financial report pursuant to this article or section 8-1.4 of the  
38 estates, powers and trusts law may satisfy the annual filing requirement  
39 of this subdivision by including such annual disclosure statement with  
40 the filing of the charitable organization's annual financial report or  
41 as a part of such organization's annual financial report. The failure to  
42 file or timely file such annual disclosure statement or to include it as  
43 a part of a charitable organization's annual financial report as permit-  
44 ted herein shall subject the charitable organization or otherwise  
45 exempted entity in default to the same fines and penalties as those that  
46 are applicable to failure by a charitable organization to file or timely  
47 file the charitable organization's annual financial report.

48 § 3. This act shall take effect on the one hundred twentieth day after  
49 it shall have become a law. Effective immediately, the addition, amend-  
50 ment and/or repeal of any rules or regulations necessary for the imple-  
51 mentation of this act on its effective date are authorized and directed  
52 to be made and completed by the attorney general on or before such  
53 effective date.