

STATE OF NEW YORK

358

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

Introduced by Sen. TEDISCO -- read twice and ordered printed, and when printed to be committed to the Committee on Elections

AN ACT to amend the election law, in relation to establishing that no conduit or intermediary may contribute, loan or guarantee in excess of one thousand dollars in connection with the nomination or election of any one candidate for state or local office within the state of New York in any election cycle

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

1 Section 1. Subdivision 8 of section 14-114 of the election law, as
2 amended by chapter 8 of the laws of 1978 and redesignated by chapter 9
3 of the laws of 1978, is amended to read as follows:

4 8. a. Except as may otherwise be provided for a candidate and his
5 family, no person may contribute, loan or guarantee in excess of one
6 hundred fifty thousand dollars within the state in connection with the
7 nomination or election of persons to state and local public offices and
8 party positions within the state of New York in any one calendar year.
9 For the purposes of this subdivision "loan" or "guarantee" shall mean a
10 loan or guarantee which is not repaid or discharged in the calendar year
11 in which it is made.

12 b. No conduit or intermediary may contribute, loan or guarantee in
13 excess of one thousand dollars in connection with the nomination or
14 election of any one candidate for state or local office within the state
15 of New York in any election cycle. For purposes of this subdivision,
16 "conduit or intermediary" means any person who receives and forwards an
17 earmarked contribution to a candidate or a candidate's authorized
18 committee. For the purposes of this paragraph, the following persons
19 shall not be considered to be conduits or intermediaries:

20 (i) an individual who is an employee or a full-time volunteer working
21 for the candidate's authorized committee, provided that the individual

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

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1 is not acting in his or her capacity as a representative of an entity
2 prohibited from making contributions;

3 (ii) a fundraising representative conducting joint fundraising with
4 the candidate's authorized committee;

5 (iii) an affiliated committee;

6 (iv) a commercial fundraising firm retained by the candidate or the
7 candidate's authorized committee to assist in fundraising; and

8 (v) an individual who is expressly authorized by the candidate or the
9 candidate's authorized committee to engage in fundraising, and who occu-
10 pies a significant position within the candidate's campaign organiza-
11 tion, provided that the individual is not acting in his or her capacity
12 as a representative of an entity prohibited from making contributions.

13 c. Any person who is prohibited from making contributions or expendi-
14 tures in connection with an election for state or local public office
15 shall be prohibited from acting as a conduit for contributions earmarked
16 to candidates or their authorized committees. The provisions of this
17 subdivision shall not restrict the ability of an organization or commit-
18 tee to serve as a collecting agent for a political action committee.

19 d. Any person who receives an earmarked contribution shall forward
20 such earmarked contribution to the candidate or authorized committee,
21 except that:

22 (i) a fundraising representative shall follow the joint fundraising
23 procedures set forth at 11 CFR 102.17; and

24 (ii) a person who is prohibited from acting as a conduit pursuant to
25 paragraph c of this subdivision shall return the earmarked contribution
26 to the contributor.

27 e. (i) The intermediary or conduit of the earmarked contribution shall
28 report the original source and the recipient candidate or authorized
29 committee to the state board of elections, and to the recipient candi-
30 date or authorized committee.

31 (ii) The report to the state board of elections shall be included in
32 the conduit's or intermediary's report for the reporting period in which
33 the earmarked contribution was received.

34 (iii) The report to the recipient candidate or authorized committee
35 shall be made when the earmarked contribution is forwarded to the recip-
36 ient candidate or authorized committee.

37 (iv) The report by the conduit or intermediary shall contain the
38 following information:

39 (A) the name and mailing address of each contributor and, for each
40 earmarked contribution in excess of one hundred dollars, the contribu-
41 tor's occupation and the name of his or her employer;

42 (B) the amount of each earmarked contribution, the date received by
43 the conduit, and the intended recipient as designated by the contribu-
44 tor; and

45 (C) the date each earmarked contribution was forwarded to the recipi-
46 ent candidate or authorized committee and whether the earmarked contrib-
47 ution was forwarded in cash or by the contributor's check or by the
48 conduit's check.

49 (v) For each earmarked contribution passed through the conduit's or
50 intermediary's account, the information specified in subparagraph (iv)
51 of this paragraph shall be itemized on the appropriate schedules of
52 receipts and disbursements attached to the conduit's or intermediary's
53 report, or shall be disclosed by letter, as appropriate. For each
54 earmarked contribution forwarded in the form of the contributor's check
55 or other written instrument, the information specified in subparagraph
56 (iv) of this paragraph shall be disclosed as a memo entry on the appro-

1 priate schedules of receipts and disbursements attached to the conduit's
2 or intermediary's report, or shall be disclosed by letter, as appropri-
3 ate. For the purposes of this subdivision, "earmarked" means a desig-
4 nation, instruction or encumbrance, whether direct or indirect, express
5 or implied, oral or written, which results in all or any part of a
6 contribution or expenditure being made to, or expended on behalf of, a
7 clearly identified candidate or a candidate's authorized committee.

8 f. (i) The recipient candidate or authorized committee shall report
9 each conduit or intermediary who forwards one or more earmarked contrib-
10 utions which in the aggregate exceed one hundred dollars in any calendar
11 year.

12 (ii) The report by the recipient candidate or authorized committee
13 shall contain the following information:

14 (A) the identification of the conduit or intermediary;

15 (B) the total amount of earmarked contributions received from the
16 conduit or intermediary and the date of receipt;

17 (C) the information required under 11 CFR 104.3(a) (3) and (4) for
18 each earmarked contribution which in the aggregate exceeds one hundred
19 dollars in any calendar year; and

20 (D) a description of the benefits earned by the intermediary or
21 conduit for his or her efforts, including, but not limited to, special
22 access to the candidate or a public official; use of public facilities;
23 gifts; premiums; or the like.

24 (iii) The information specified in subparagraph (ii) of this paragraph
25 shall be itemized on a schedule to be attached to the report for the
26 reporting period in which the earmarked contribution is received.

27 g. (i) A conduit's or intermediary's contribution limits are not
28 affected by the forwarding of an earmarked contribution except where the
29 conduit or intermediary exercises any direction or control over the
30 choice of the recipient candidate.

31 (ii) If a conduit or intermediary exercises any direction or control
32 over the choice of the recipient candidate, the earmarked contribution
33 shall be considered a contribution by both the original contributor and
34 the conduit or intermediary. If the conduit or intermediary exercises
35 any direction or control over the choice of the recipient candidate, the
36 report filed by the conduit or intermediary and the report filed by the
37 recipient candidate or authorized committee shall indicate that the
38 earmarked contribution is made by both the original contributor and the
39 conduit or intermediary, and that the entire amount of the contribution
40 is attributed to each.

41 § 2. This act shall take effect immediately.