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State Trends in Governance and Regulatory Oversight

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STATE OF NEW YORK

5845

2013-2014 Regular Sessions

IN SENATE

June 18, 2013

Introduced by Sen. RANZENHOFER -- (at request of the Attorney General)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Rules

AN ACT to amend the executive law, the banking law, the benevolent orders law, the education law, the general business law, the insurance law, the mental hygiene law, the public authorities law, the private housing finance law, the public lands law, the racing, pari-mutuel wagering and breeding law, the religious corporations law, the surrogate's court procedure act, the not-for-profit corporation law, and the estates, powers and trusts law, in relation to reform of charitable organizations; and to repeal certain provisions of the not-for-profit corporation law relating thereto; 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. This act shall be known and may be cited as the "non-profit
2 revitalization act of 2013".
3 § 2. Subdivision 9 of section 171-a of the executive law, as amended
4 by chapter 353 of the laws of 1987, is amended to read as follows:
5 9. "Fund raising counsel." Any person who for compensation consults
6 with a charitable organization or who plans, manages, advises, or
7 assists with respect to the solicitation in this state of contributions
8 for or on behalf of a charitable organization, but who does not have
9 access to contributions or other receipts from a solicitation or author-
10 ity to pay expenses associated with a solicitation and who does not
11 solicit. A bona fide officer, volunteer, or employee of a charitable
12 organization or an attorney at law retained by a charitable organization
13 or an individual engaged solely to draft applications for funding from a
14 governmental agency or an entity exempt from taxation pursuant to
15 section 501(c)(3) of the internal revenue code, shall not be deemed a
16 fund raising counsel.

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

LBD10180-09-3

1 § 3. Subdivisions 1, 2 and 2-a of section 172-b of the executive law,
2 as amended by chapter 43 of the laws of 2002, are amended to read as
3 follows:

4 1. Every charitable organization registered or required to be regis-
5 tered pursuant to section one hundred seventy-two of this article which
6 shall receive in any fiscal year gross revenue and support in excess of
7 [two hundred fifty] five hundred thousand dollars [and every charitable
8 organization whose fund-raising functions are not carried on solely by
9 persons who are unpaid for such services] shall file with the attorney
10 general an annual written financial report, on forms prescribed by the
11 attorney general, on or before the fifteenth day of the fifth calendar
12 month after the close of such fiscal year. The annual financial report
13 shall be accompanied by an annual financial statement which includes an
14 independent certified public accountant's audit report containing an
15 opinion that the financial statements are presented fairly in all mate-
16 rial respects and in conformity with generally accepted accounting prin-
17 ciples, including compliance with all pronouncements of the financial
18 accounting standards board and the American Institute of Certified
19 Public Accountants that establish accounting principles relevant to
20 not-for-profit organizations. Such financial report shall include a
21 statement of any changes in the information required to be contained in
22 the registration form filed on behalf of such organization. The finan-
23 cial report shall be signed by the president or other authorized officer
24 and the chief fiscal officer of the organization who shall certify under
25 penalties for perjury that the statements therein are true and correct
26 to the best of their knowledge, and shall be accompanied by an opinion
27 signed by an independent public accountant that the financial statement
28 and balance sheet therein present fairly the financial operations and
29 position of the organization. A fee of twenty-five dollars payable to
30 the attorney general shall accompany such financial report at the time
31 of filing, provided however, that any such organization that is regis-
32 tered with the attorney general pursuant to article eight of the
33 estates, powers and trusts law is required to file only one annual
34 financial report which meets the filing requirements of this article and
35 section 8-1.4 of the estates, powers and trusts law.

36 2. Every charitable organization registered or required to be regis-
37 tered pursuant to section one hundred seventy-two of this article which
38 shall receive in gross revenue and support in any fiscal year at least
39 [one hundred] two hundred fifty thousand dollars but not more than [two
40 hundred fifty] five hundred thousand dollars shall file an annual finan-
41 cial report. The annual financial report shall be accompanied by an
42 annual financial statement which includes an independent certified
43 public accountant's review report in accordance with "statements on
44 standards for accounting and review services" issued by the American
45 Institute of Certified Public Accountants. The annual financial state-
46 ment shall be prepared in conformity with generally accepted accounting
47 principles, including compliance with all pronouncements of the finan-
48 cial accounting standards board and the American Institute of Certified
49 Public Accountants that establish accounting principles relevant to
50 not-for-profit organizations. Such financial report shall be filed with
51 the attorney general, upon forms prescribed by the attorney general on
52 an annual basis on or before the fifteenth day of the fifth calendar
53 month after the close of such fiscal year, which shall include a finan-
54 cial report covering such fiscal year in accordance with such require-
55 ments as the attorney general may prescribe. Such financial report shall
56 include a statement of any changes in the information required to be



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