

S. 6258--A

A. 9058--A

S E N A T E - A S S E M B L Y

January 17, 2012

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2012-2013; to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund; and to amend chapter 60 of the laws of 2011, authorizing funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012 and amending chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the effectiveness thereof (Part A); to amend the highway law and the state finance law, in relation to modifying the distribution of certain funds (Part B); to amend the transportation law, in relation to enacting a performance based bus inspection program (Part C); to amend the vehicle and traffic law, in relation to commercial driver's licenses and medical certifications; and to repeal paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law, relating to commercial driver's licenses (Part D); to amend the public authorities law, in relation to notes, bonds and other obligations of the metropolitan transportation authority, Triborough bridge and tunnel authority and New York city transit authority (Part E); to amend vehicle and traffic law in relation to establishing an additional retention rate for county clerks acting as an agent of the department of motor vehicles based upon internet transactions (Part F); to amend the transportation law, the vehicle and traffic law, the general municipal law, the environmental conservation law and the executive law, in relation to federal revenue; and repeal-

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

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ing section 214 of the transportation law relating thereto (Part G); to amend the environmental conservation law, in relation to the regulation of various fish and wildlife licenses, permits and fees; and repealing certain provisions of such law relating thereto (Part H); to amend the public service law, in relation to eliminating state regulation of VoIP service in order to facilitate competition and ensure consumers receive the maximum benefit of competition (Part I); to amend the environmental conservation law, in relation to hazardous waste program fees and surcharges (Part J); to amend the state finance law and the public authorities law, in relation to the sewage treatment and drinking water funds and the water pollution control and drinking water revolving funds (Part K); to amend the agriculture and markets law, in relation to seed testing (Part L); to amend the agriculture and markets law, in relation to fees for services (Part M); to amend the agriculture and markets law, in relation to food processing license fees; and to repeal subdivision 4 of section 128-a and subdivision 3 of section 133-a of the agriculture and markets law and section 90-b of the state finance law relating to the commercial feed licensing fund (Part N); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part O); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part P); to amend chapter 35 of the laws of 1979, relating to appropriating funds to the New York state urban development corporation for the acquisition and initial planning of convention and exhibition center facilities in New York county, in relation to additional powers of such corporation (Part Q); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part R); to repeal subdivision 3 of section 16-m of the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part S); to amend the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make grants (Part T); to amend the state finance law, in relation to the excelsior linked deposit act (Part U); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part V); to amend the general business law and the real property law, in relation to increasing the term of licensure and registration from two to four years (Part W); to amend the racing, pari-mutuel wagering and breeding law, in relation to presenting uncashed pari-mutuel vouchers within a prescribed period of time (Part X); to amend the racing, pari-mutuel wagering and breeding law and the public officers law, in relation to employment of officials at harness race meetings (Part Y); to amend the agriculture and markets law, in relation to authorizing the creation of a dairy research and education order (Part Z); to amend the public authorities law, in relation to the recovery of state governmental costs from public authorities and public benefit corporations (Part AA); to amend the public authorities law, in relation to the powers and duties of the dormitory authority of the state of New York (Part BB); and to amend the banking law, the business corporation law, the cooperative corporations law, the general associations law,

the limited liability company law, the not-for-profit corporation law, the partnership law and the private housing finance law, in relation to facilitating an online corporate filing system, simplifying the filing of corporate documents and reducing costs and regulatory burdens on the state's businesses; and to repeal certain provisions of the business corporation law, the not-for-profit corporation law, the partnership law and the religious corporations law relating thereto (Part CC)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2012-2013
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through CC. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. The sum of four hundred two million seven hundred ninety-
14 seven thousand dollars (\$402,797,000), or so much thereof as shall be
15 necessary, and in addition to amounts previously appropriated by law, is
16 hereby made available, in accordance with subdivision 1 of section 380
17 of the public authorities law as amended, according to the following
18 schedule. Payments pursuant to subdivision (a) of this section shall be
19 made available as moneys become available for such payments. Payments
20 pursuant to subdivisions (b) and (c) of this section shall be made
21 available on the fifteenth day of June, September, December and March or
22 as soon thereafter as moneys become available for such payments. No
23 moneys of the state in the state treasury or any of its funds shall be
24 available for payments pursuant to this section:

25 SCHEDULE

26 (a) Thirty-nine million seven hundred thousand dollars (\$39,700,000)
27 to municipalities for repayment of eligible costs of federal aid munici-
28 pal street and highway projects pursuant to section 15 of chapter 329 of
29 the laws of 1991, as added by section 9 of chapter 330 of the laws of
30 1991, as amended. The department of transportation shall provide such
31 information to the municipalities as may be necessary to maintain the
32 federal tax exempt status of any bonds, notes, or other obligations
33 issued by such municipalities to provide for the non-federal share of
34 the cost of projects pursuant to chapter 330 of the laws of 1991 or
35 section 80-b of the highway law.

36 The program authorized pursuant to section 15 of chapter 329 of the
37 laws of 1991, as added by section 9 of chapter 330 of the laws of 1991,
38 as amended, shall additionally make payments for reimbursement according
39 to the following schedule:

40 State Fiscal Year	Amount
41 2012-13	\$39,700,000

1 (b) Three hundred four million three hundred thousand dollars
2 (\$304,300,000) to counties, cities, towns and villages for reimbursement
3 of eligible costs of local highway and bridge projects pursuant to
4 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
5 section 9 of chapter 330 of the laws of 1991, as amended. For the
6 purposes of computing allocations to municipalities, the amount distrib-
7 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
8 deemed to be \$121,520,000. The amount distributed pursuant to section
9 16-a of chapter 329 of the laws of 1991 shall be deemed to be
10 \$182,780,000. Notwithstanding the provisions of any general or special
11 law, the amounts deemed distributed in accordance with section 16 of
12 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
13 will not be less than 83.807 percent of the "funding level" as defined
14 in subdivision 5 of section 10-c of the highway law for each such muni-
15 cipality. In order to achieve the objectives of section 16 of chapter
16 329 of the laws of 1991, to the extent necessary, the amounts in excess
17 of 83.807 percent of the funding level to be deemed distributed to each
18 municipality under this subdivision shall be reduced in equal propor-
19 tion.

20 (c) Fifty-eight million seven hundred ninety-seven thousand dollars
21 (\$58,797,000) to municipalities for reimbursement of eligible costs of
22 local highway and bridge projects pursuant to sections 16 and 16-a of
23 chapter 329 of the laws of 1991, as added by section 9 of chapter 330 of
24 the laws of 1991, as amended. For the purposes of computing allocations
25 to municipalities, the amount distributed pursuant to section 16 of
26 chapter 329 of the laws of 1991 shall be deemed to be \$23,480,000. The
27 amount distributed pursuant to section 16-a of chapter 329 of the laws
28 of 1991 shall be deemed to be \$35,317,000. Notwithstanding the
29 provisions of any general or special law, the amounts deemed distributed
30 in accordance with section 16 of chapter 329 of the laws of 1991 shall
31 be adjusted so that such amounts will not be less than 16.193 percent of
32 the "funding level" as defined in subdivision 5 of section 10-c of the
33 highway law for each such municipality. In order to achieve the objec-
34 tives of section 16 of chapter 329 of the laws of 1991, to the extent
35 necessary, the amounts in excess of 16.193 percent of the funding level
36 to be deemed distributed to each municipality under this subdivision
37 shall be reduced in equal proportion. To the extent that the total of
38 remaining payment allocations calculated herein varies from \$58,797,000,
39 the payment amounts to each locality shall be adjusted by a uniform
40 percentage so that the total payments equal \$58,797,000.

41 The program authorized pursuant to sections 16 and 16-a of chapter 329
42 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
43 1991, as amended, shall additionally make payments for reimbursement
44 according to the following schedule:

45 State Fiscal Year	Amount
46 2012-13	\$363,097,000

47 S 2. Subdivision (f) of section 16 of chapter 329 of the laws of 1991,
48 amending the state finance law and other laws relating to the establish-
49 ment of the dedicated highway and bridge trust fund, as added by section
50 2 of part A of chapter 60 of the laws of 2011, is amended to read as
51 follows:

52 (f) For purposes of this section and section 10-c of the highway law,
53 for projects completed on or before March 31, [2012] 2013 local highway
54 and bridge projects may also include the following work types: (1)
55 microsurfacing, (2) paver placed surface treatment, (3) single course
56 surface treatment involving chip seals and oil and stone, and (4) double

1 course surface treatment involving chip seals and oil and stone, howev-
2 er, no reimbursement shall be made for (1) microsurfacing, (2) paver
3 placed surface treatment, (3) single course surface treatment involving
4 chip seals and oil and stone, and (4) double course surface treatment
5 involving chip seals and oil and stone after March 31, [2012] 2013.
6 Reimbursement for projects using these treatments may be made from the
7 proceeds of bonds, notes or other obligations issued by the New York
8 state thruway authority pursuant to section 380 of the public authori-
9 ties law or otherwise as determined by the director of the budget.

10 S 3. Subdivision (f) of section 16-a of chapter 329 of the laws of
11 1991, amending the state finance law and other laws relating to the
12 establishment of the dedicated highway and bridge trust fund, as added
13 by section 3 of part A of chapter 60 of the laws of 2011, is amended to
14 read as follows:

15 (f) For purposes of this section and section 10-c of the highway law,
16 for projects completed on or before March 31, [2012] 2013 local highway
17 and bridge projects may also include the following work types: (1)
18 microsurfacing, (2) paver placed surface treatment, (3) single course
19 surface treatment involving chip seals and oil and stone, and (4) double
20 course surface treatment involving chip seals and oil and stone, howev-
21 er, no reimbursement shall be made for (1) microsurfacing, (2) paver
22 placed surface treatment, (3) single course surface treatment involving
23 chip seals and oil and stone, and (4) double course surface treatment
24 involving chip seals and oil and stone after March 31, [2012] 2013.
25 Reimbursement for projects using these treatments may be made from the
26 proceeds of bonds, notes or other obligations issued by the New York
27 state thruway authority pursuant to section 380 of the public authori-
28 ties law or otherwise as determined by the director of the budget.

29 S 4. Subdivision (d) of section 11 of chapter 329 of the laws of 1991,
30 amending the state finance law and other laws relating to the establish-
31 ment of the dedicated highway and bridge trust fund, as amended by
32 section 4 of part A of chapter 60 of the laws of 2011, is amended to
33 read as follows:

34 (d) Any such service contract (i) shall provide that the obligation of
35 the director of the budget or the state to fund or to pay the amounts
36 therein provided for shall not constitute a debt of the state within the
37 meaning of any constitutional or statutory provisions in the event the
38 thruway authority assigns or pledges service contract payments as secu-
39 rity for its bonds or notes, (ii) shall be deemed executory only to the
40 extent moneys are available and that no liability shall be incurred by
41 the state beyond the moneys available for the purpose, and that such
42 obligation is subject to annual appropriation by the legislature, and
43 (iii) shall provide that no funds shall be made available from the
44 proceeds of bonds or notes issued pursuant to this chapter unless the
45 commissioner of transportation has certified to the chairman of the
46 thruway authority that such funds shall be used exclusively for the
47 purposes authorized by subdivision (a) of this section, and/or
48 construction, reconstruction or improvement of local highways, bridges
49 and/or highway-railroad crossings, including right of way acquisition,
50 preliminary engineering, and construction supervision and inspection,
51 where the service life of the project is at least ten years or for
52 projects completed on or before March 31, [2012] 2013 where the project
53 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
54 course surface treatment involving chip seals and oil and stone and (4)
55 double course surface treatment involving chip seals and oil and stone,
56 and unless the director of the budget has certified to the chairman of

1 the thruway authority that a spending plan has been submitted by the
2 commissioner of transportation and has been approved by the director of
3 the budget. No reimbursement shall be made for (1) microsurfacing, (2)
4 paver placed surface treatment, (3) single course surface treatment
5 involving chip seals and oil and stone, and (4) double course surface
6 treatment involving chip seals and oil and stone after March 31, [2012]
7 2013.

8 S 5. Subdivision (b) of section 16 of chapter 329 of the laws of 1991,
9 amending the state finance law and other laws relating to the establish-
10 ment of the dedicated highway and bridge trust fund, as amended by
11 section 5 of part A of chapter 60 of the laws of 2011, is amended to
12 read as follows:

13 (b) Each county, city, town and village shall certify to the commis-
14 sioner of transportation that amounts to be reimbursed are for
15 construction, reconstruction or improvement of local highways, bridges
16 and/or highway-railroad crossings, including right of way acquisition,
17 preliminary engineering, and construction supervision and inspection
18 where the service life of the project is at least ten years or for
19 projects completed on or before March 31, [2012] 2013 where the project
20 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
21 course surface treatment involving chip seals and oil and stone and (4)
22 double course surface treatment involving chip seals and oil and stone.
23 No reimbursement shall be made for (1) microsurfacing, (2) paver placed
24 surface treatment, (3) single course surface treatment involving chip
25 seals and oil and stone, and (4) double course surface treatment involv-
26 ing chip seals and oil and stone after March 31, [2012] 2013. Such
27 certification shall include any such information as may be necessary to
28 maintain the federal tax exempt status of bonds, notes or other obli-
29 gations issued by the New York state thruway authority pursuant to
30 section 380 of the public authorities law. The commissioner of transpor-
31 tation shall in writing request the municipalities to furnish such
32 information as may be necessary to comply with this section.

33 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
34 1991, amending the state finance law and other laws relating to the
35 establishment of the dedicated highway and bridge trust fund, as amended
36 by section 6 of part A of chapter 60 of the laws of 2011, is amended to
37 read as follows:

38 (b) Each county, city, town and village shall certify to the commis-
39 sioner of transportation that amounts to be reimbursed are for
40 construction, reconstruction or improvement of local highways, bridges
41 and/or highway-railroad crossings, including right of way acquisition,
42 preliminary engineering, and construction supervision and inspection
43 where the service life of the project is at least ten years or for
44 projects completed on or before March 31, [2012] 2013 where the project
45 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
46 course surface treatment involving chip seals and oil and stone and (4)
47 double course surface treatment involving chip seals and oil and stone.
48 No reimbursement shall be made for (1) microsurfacing, (2) paver placed
49 surface treatment, (3) single course surface treatment involving chip
50 seals and oil and stone, and (4) double course surface treatment involv-
51 ing chip seals and oil and stone after March 31, [2012] 2013. Such
52 certification shall include any such information as may be necessary to
53 maintain the federal tax exempt status of bonds, notes or other obli-
54 gations issued by the New York state thruway authority pursuant to
55 section 380 of the public authorities law. The commissioner shall in

1 writing request the municipalities to furnish such information as may be
2 necessary to comply with this section.

3 S 7. Section 7 of part A of chapter 60 of the laws of 2011, authoriz-
4 ing funding for the Consolidated Local Street and Highway Improvement
5 Program (CHIPS) and Marchiselli program for state fiscal year 2011-2012
6 and amending chapter 329 of the laws of 1991, amending the state finance
7 law and other laws relating to the establishment of the dedicated high-
8 way and bridge trust fund, is amended to read as follows:

9 S 7. This act shall take effect immediately; provided, however, that
10 sections two, three, four, five and six of this act shall expire and be
11 deemed repealed on April 1, [2012] 2013.

12 S 8. This act shall take effect immediately; provided, however, that
13 the amendments to subdivisions (f) and (b) of section 16 of chapter 329
14 of the laws of 1991 made by sections two and five of this act, respec-
15 tively, shall not affect the repeal of such subdivisions and shall be
16 deemed repealed therewith; provided, further, that the amendments to
17 subdivisions (f) and (b) of section 16-a of chapter 329 of the laws of
18 1991 made by sections three and six of this act, respectively, shall not
19 affect the repeal of such subdivisions and shall be deemed repealed
20 therewith; and provided, further, that the amendments to subdivision (d)
21 of section 11 of chapter 329 of the laws of 1991 made by section four of
22 this act shall not affect the repeal of such subdivision and shall be
23 deemed repealed therewith.

24 PART B

25 Section 1. Section 326 of the highway law, as amended by chapter 1110
26 of the laws of 1971, is amended to read as follows:

27 S 326. Penalties, how recovered. All penalties or forfeitures given in
28 this chapter, and not otherwise specially provided for, shall be recov-
29 ered by the town superintendent, in the name of the town in which the
30 offense shall be committed; and when recovered, shall be applied by them
31 in improving the highways and bridges in such town, except that if the
32 offense occurs on any highway included in the systems defined by section
33 three hundred forty-one of this chapter, such penalties or forfeitures
34 may be recovered by the commissioner of transportation and where so
35 recovered shall be [paid to the state treasurer to the credit of the
36 fund available for the maintenance and repair of state highways] DEPOS-
37 ITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT
38 ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED
39 PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

40 S 2. Paragraph (a) of subdivision 3 of section 89-b of the state
41 finance law, as amended by section 2 of chapter 165 of the laws of 2008,
42 is amended to read as follows:

43 (a) The special obligation reserve and payment account shall consist
44 (i) of all moneys required to be deposited in the dedicated highway and
45 bridge trust fund pursuant to the provisions of sections two hundred
46 five, two hundred eighty-nine-e, three hundred one-j, five hundred
47 fifteen and eleven hundred sixty-seven of the tax law, section four
48 hundred one of the vehicle and traffic law, and section thirty-one of
49 chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all
50 fees, fines or penalties collected by the commissioner of transportation
51 pursuant to section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and
52 subdivisions five, eight and twelve of section eighty-eight of the high-
53 way law, subdivision fifteen of section three hundred eighty-five of the
54 vehicle and traffic law, section two of the chapter of the laws of two

1 thousand three that amended this paragraph, subdivision (d) of section
2 three hundred four-a, paragraph one of subdivision (a) and subdivision
3 (d) of section three hundred five, subdivision six-a of section four
4 hundred fifteen and subdivision (g) of section twenty-one hundred twenty-five of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

13 S 3. Paragraph (a) of subdivision 3 of section 89-b of the state
14 finance law, as amended by section 3 of chapter 165 of the laws of 2008,
15 is amended to read as follows:

16 (a) The special obligation reserve and payment account shall consist
17 (i) of all moneys required to be deposited in the dedicated highway and
18 bridge trust fund pursuant to the provisions of sections two hundred
19 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
20 hundred sixty-seven of the tax law, section four hundred one of the
21 vehicle and traffic law, and section thirty-one of chapter fifty-six of
22 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
23 penalties collected by the commissioner of transportation pursuant to
24 section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and subdivisions
25 five, eight and twelve of section eighty-eight of the highway law,
26 subdivision fifteen of section three hundred eighty-five of the vehicle
27 and traffic law, section fifteen of this chapter, excepting moneys
28 deposited with the state on account of betterments performed pursuant to
29 subdivision twenty-seven or subdivision thirty-five of section ten of
30 the highway law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

35 S 4. This act shall take effect immediately, and shall be deemed to
36 have been in full force and effect on and after April 1, 2012; and
37 provided, however, that the amendments to paragraph (a) of subdivision 3
38 of section 89-b of the state finance law made by section two of this act
39 shall be subject to the expiration and reversion of such paragraph
40 pursuant to section 13 of part U-1 of chapter 62 of the laws of 2003, as
41 amended, when upon such date the provisions of section three of this act
42 shall take effect.

43

PART C

44 Section 1. Subdivision 3 of section 140 of the transportation law, as
45 added by chapter 635 of the laws of 1983, is amended to read as follows:

46 3. No motor vehicle [carrying] DESIGNED TO CARRY passengers, as
47 described in subdivision two of this section, shall be operated within
48 the state unless it carries prominently displayed thereon the name of
49 the operator and certificate evidencing an inspection in accordance with
50 the rules and regulations of the commissioner [within a period of six
51 months last preceding]. The commissioner may, by order, rule or regulation, exempt from the requirements of this subdivision, vehicles which
52 are not operated exclusively in transportation services for which
53 inspection is required, provided that written evidence of the names
54

1 otherwise subject to prominent display and such a certificate of
2 inspection are at all times carried within such vehicles to be made
3 available for examination upon proper demand, while the vehicles are
4 operated in such service.

5 S 2. This act shall take effect immediately and shall be deemed to
6 have been in full force and effect on and after April 1, 2012.

7
PART D

8 Section 1. Subdivision 1 of section 502 of the vehicle and traffic
9 law, as amended by section 2 of part CC of chapter 58 of the laws of
10 2011, is amended to read as follows:

11 1. Application for license. Application for a driver's license shall
12 be made to the commissioner. The fee prescribed by law may be submitted
13 with such application. The applicant shall furnish such proof of identi-
14 ty, age, and fitness as may be required by the commissioner. The commis-
15 sioner may also provide that the application procedure shall include the
16 taking of a photo image or images of the applicant in accordance with
17 rules and regulations prescribed by the commissioner. In addition, the
18 commissioner also shall require that the applicant provide his or her
19 social security number and provide space on the application so that the
20 applicant may register in the New York state organ and tissue donor
21 registry under section forty-three hundred ten of the public health law.
22 In addition, an applicant for a commercial driver's license who will
23 operate a commercial motor vehicle in interstate commerce shall certify
24 that such applicant meets the requirements to operate a commercial motor
25 vehicle, as set forth in public law 99-570, title XII, and title 49 of
26 the code of federal regulations, and all regulations promulgated by the
27 United States secretary of transportation under the hazardous materials
28 transportation act. In addition, an applicant for a commercial driver's
29 license shall submit a medical certificate at such intervals as required
30 by the federal motor carrier safety improvement act of 1999 and Part
31 383.71(h) of title 49 of the code of federal regulations relating to
32 medical certification and in a manner prescribed by the commissioner.
33 For purposes of this section and sections five hundred three [and], five
34 hundred ten-a, AND FIVE HUNDRED TEN-AA of this title, the [term] TERMS
35 "medical certificate" AND "MEDICAL CERTIFICATION" shall mean a form
36 substantially in compliance with the form set forth in Part 391.43(h) of
37 title 49 of the code of federal regulations. Upon a determination that
38 the holder of a commercial driver's license has made any false state-
39 ment, with respect to the application for such license, the commissioner
40 shall revoke such license.

41 S 2. Paragraph (b) of subdivision 1 of section 503 of the vehicle and
42 traffic law, as amended by section 3 of part CC of chapter 58 of the
43 laws of 2011, is amended to read as follows:

44 (b) An application for a license shall be valid for a period of time
45 specified by regulation of the commissioner not to exceed five years. A
46 learner's permit shall be valid from its issuance until the expiration
47 of the application for a driver's license for which it was issued.
48 Provided, however, that [if the medical certificate submitted in accord-
49 ance with the requirements of the federal motor carrier safety improve-
50 ment act of 1999 and Part 383.71(h) of title 49 of the code of federal
51 regulations by an applicant for a commercial driver's license expires,
52 any] A learner's permit [that may have been] issued by the commissioner
53 in connection with [the] AN application FOR A COMMERCIAL DRIVER'S
54 LICENSE shall be [suspended] CANCELLED UPON: (I) THE EXPIRATION OF THE

HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS; (II) THE HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER; OR (III) THE RECEIPT BY THE COMMISSIONER OF INFORMATION FROM THE ISSUING MEDICAL EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR.

S 3. Paragraph (f) of subdivision 3 of section 510-a of the vehicle and traffic law is REPEALED.

S 4. The vehicle and traffic law is amended by adding a new section 510-aa to read as follows:

S 510-AA. DOWNGRADE OF COMMERCIAL DRIVER'S LICENSES. A COMMERCIAL DRIVER'S LICENSE SHALL BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON THE EXPIRATION OF THE HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, OR UPON THE HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER. A COMMERCIAL DRIVER'S LICENSE SHALL ALSO BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE COMMISSIONER UPON RECEIPT OF INFORMATION FROM THE ISSUING MEDICAL EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR. SUCH DOWNGRADE SHALL BE TERMINATED, AND THE COMMERCIAL DRIVER'S LICENSE RESTORED, UPON: (1) THE HOLDER'S SUBMISSION OF THE REQUIRED VALID MEDICAL EXAMINER'S CERTIFICATE OR MEDICAL VARIANCE DOCUMENTATION; OR (2) THE HOLDER'S SELF-CERTIFICATION SPECIFYING THE TYPE OF COMMERCIAL MOTOR VEHICLE OPERATION HE OR SHE ENGAGES, OR EXPECTS TO ENGAGE IN, AND THAT THE HOLDER IS THEREFORE NOT SUBJECT TO THE PHYSICAL QUALIFICATION REQUIREMENTS OF THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 5. Section 509 of the vehicle and traffic law is amended by adding a new subdivision 7-a to read as follows:

7-A. NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS MEDICALLY CERTIFIED IN ACCORDANCE WITH THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

S 6. This act shall take effect immediately; provided, however, that if sections 2 and 3 of part CC of chapter 58 of the laws of 2011 shall not have taken effect on or before such date then sections one and two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2011 takes effect; provided further, however, that section five of this act shall take effect on the sixtieth day after it shall have become a law.

PART E

Section 1. Subdivision 12 of section 1269 of the public authorities law, as amended by section 1 of part NN of chapter 59 of the laws of 2010, is amended to read as follows:

12. The aggregate principal amount of bonds, notes or other obligations issued after the first day of January, nineteen hundred ninety-three by the authority, the Triborough bridge and tunnel authority and the New York city transit authority to fund projects contained in capital program plans approved pursuant to section twelve hundred sixty-

1 nine-b of this [article] TITLE for the period nineteen hundred ninety-
2 two through two thousand fourteen shall not exceed [thirty-four]
3 FORTY-ONE billion eight hundred seventy-seven million dollars. Such
4 aggregate principal amount of bonds, notes or other obligations or the
5 expenditure thereof shall not be subject to any limitation contained in
6 any other provision of law on the principal amount of bonds, notes or
7 other obligations or the expenditure thereof applicable to the authori-
8 ty, the Triborough bridge and tunnel authority or the New York city
9 transit authority. The aggregate limitation established by this subdivi-
10 sion shall not include (i) obligations issued to refund, redeem or
11 otherwise repay, including by purchase or tender, obligations thereto-
12 fore issued either by the issuer of such refunding obligations or by the
13 authority, the New York city transit authority or the Triborough bridge
14 and tunnel authority, (ii) obligations issued to fund any debt service
15 or other reserve funds for such obligations, (iii) obligations issued or
16 incurred to fund the costs of issuance, the payment of amounts required
17 under bond and note facilities, federal or other governmental loans,
18 security or credit arrangements or other agreements related thereto and
19 the payment of other financing and related costs associated with such
20 obligations, (iv) an amount equal to any original issue discount from
21 the principal amount of such obligations or to fund capitalized inter-
22 est, (v) obligations incurred pursuant to section twelve hundred seven-m
23 of this article, (vi) obligations incurred to fund the acquisition of
24 certain buses for the New York city transit authority as identified in a
25 capital program plan approved pursuant to chapter fifty-three of the
26 laws of nineteen hundred ninety-two, (vii) obligations incurred in
27 connection with the leasing, selling or transferring of equipment, and
28 (viii) bond anticipation notes or other obligations payable solely from
29 the proceeds of other bonds, notes or other obligations which would be
30 included in the aggregate principal amount specified in the first
31 sentence of this subdivision, whether or not additionally secured by
32 revenues of the authority, or any of its subsidiary corporations, New
33 York city transit authority, or any of its subsidiary corporations, or
34 Triborough bridge and tunnel authority.
35 S 2. This act shall take effect immediately.

36

PART F

37 Section 1. Section 205 of the vehicle and traffic law is amended by
38 adding a new subdivision 3-a to read as follows:
39 3-A. IN ADDITION TO THE FEES RETAINED PURSUANT TO SUBDIVISION THREE OF
40 THIS SECTION, EACH COUNTY CLERK ACTING AS THE AGENT OF THE COMMISSIONER
41 PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL RETAIN FOUR PERCENT OF
42 "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" COLLECTED BY THE
43 COMMISSIONER. FOR THE PURPOSES OF THIS SUBDIVISION, "ENHANCED INTERNET
44 AND ELECTRONIC PARTNER REVENUE" SHALL MEAN THE AMOUNT OF GROSS RECEIPTS
45 ATTRIBUTABLE TO ALL TRANSACTIONS CONDUCTED ON THE INTERNET BY RESIDENTS
46 OF SUCH COUNTY AND BY DESIGNATED PARTNERS OF THE DEPARTMENT ON BEHALF OF
47 SUCH RESIDENTS FOR THE CURRENT CALENDAR YEAR THAT EXCEEDS THE AMOUNT OF
48 SUCH REVENUE COLLECTED BY THE COMMISSIONER DURING CALENDAR YEAR TWO
49 THOUSAND ELEVEN. THE COMMISSIONER SHALL CERTIFY THE AMOUNTS TO BE
50 RETAINED BY EACH COUNTY CLERK PURSUANT TO THIS SUBDIVISION. PROVIDED,
51 HOWEVER, THAT IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS
52 PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND
53 TWO THOUSAND THIRTEEN COMBINED EXCEEDS EIGHTY-EIGHT MILLION FIVE HUNDRED
54 THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER

1 SHALL BE REDUCED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED
2 DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
3 COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT
4 MILLION FIVE HUNDRED THOUSAND DOLLARS OR 2.5 PERCENT OF ENHANCED INTER-
5 NET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS HIGHER. IF THE AGGRE-
6 GATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVI-
7 SION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
8 COMBINED IS LESS THAN EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND
9 DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE
10 INCREASED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING
11 CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED,
12 WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION
13 FIVE HUNDRED THOUSAND DOLLARS, OR SIX PERCENT OF ENHANCED INTERNET AND
14 ELECTRONIC PARTNER REVENUE, WHICHEVER IS LESS. ON AND AFTER APRIL FIRST,
15 TWO THOUSAND SIXTEEN, THE PERCENT OF ENHANCED INTERNET AND ELECTRONIC
16 PARTNER REVENUE TO BE RETAINED BY COUNTY CLERKS SHALL BE THE AVERAGE OF
17 THE ANNUAL PERCENTAGES THAT WERE IN EFFECT BETWEEN APRIL FIRST, TWO
18 THOUSAND TWELVE AND MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN.

19 S 2. This act shall take effect April 1, 2012.

20

PART G

21 Section 1. Subdivision 1 of section 140 of the transportation law, as
22 added by chapter 635 of the laws of 1983, is amended to read as follows:

23 1. Every [common and contract] FOR HIRE AND PRIVATE carrier of passen-
24 ger by motor vehicle INVOLVED IN INTERSTATE, INTRASTATE, OR INTERNA-
25 TIONAL COMMERCE DOMICILED IN NEW YORK shall furnish and provide with
26 respect thereto such service and facilities as shall be safe and
27 adequate. Any such carrier shall give immediate notice to the commis-
28 sioner of every accident to which it shall, in the course of its oper-
29 ations, have been a party.

30 S 2. Subparagraph (ii) of paragraph a of subdivision 2 of section 140
31 of the transportation law, as amended by chapter 602 of the laws of
32 1985, is amended to read as follows:

33 (ii) All MOTOR CARRIERS, EMPLOYEES AND motor vehicles [operated pursu-
34 ant to or requiring a certificate or permit for the transportation of
35 passengers or property from the interstate commerce commission or the
36 commissioner] THAT TRANSPORT PROPERTY OR PASSENGERS IN INTRASTATE,
37 INTERSTATE, OR INTERNATIONAL COMMERCE.

38 S 3. Paragraphs b and c of subdivision 2 of section 140 of the trans-
39 portation law, paragraph b as amended by chapter 173 of the laws of 1990
40 and paragraph c as amended by chapter 602 of the laws of 1985, are
41 amended to read as follows:

42 b. [In addition to those vehicles operated pursuant to or requiring a
43 certificate or a permit for the transportation of property from the
44 interstate commerce commission or the commissioner as set forth in
45 subparagraph (ii) of paragraph a of this subdivision, the commissioner
46 shall have the power to adopt rules and regulations governing the safety
47 of operation of other motor vehicles operated for the commercial trans-
48 portation of property.

49 c.] The department shall have the power to examine vehicles, facili-
50 ties and records subject to the provisions of this subdivision, at any
51 time and place where they are found, to ascertain whether such rules and
52 regulations are being obeyed. The rules and regulations of the commis-
53 sioner shall provide for the inspection of all such vehicles, FACILITIES
54 AND RECORDS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, at such peri-

ods and at such manner as the commissioner may direct, and, when adopted, shall have the full force and effect of law.

S 3-a. Paragraph d of subdivision 2 of section 140 of the transportation law is relettered paragraph c and subparagraph (i) of such paragraph, as added by chapter 173 of the laws of 1990, is amended to read as follows:

(i) No MOTOR CARRIER, EMPLOYEE OR motor vehicle [operated pursuant to or requiring a certificate or a permit for the transportation of property from the interstate commerce commission or the commissioner and no motor vehicle operated for the commercial transportation of property] THAT TRANSPORTS PROPERTY OR PASSENGERS IN INTRASTATE, INTERSTATE, OR INTERNATIONAL COMMERCE shall [be operated] OPERATE in this state unless [it] SUCH MOTOR CARRIER, EMPLOYEE OR MOTOR VEHICLE is in compliance with the department's safety rules and regulations.

S 4. Subdivisions 4 and 5 of section 140 of the transportation law, subdivision 4 as added by chapter 635 of the laws of 1983 and subdivision 5 as amended by chapter 731 of the laws of 1988, are amended to read as follows:

4. Each motor vehicle engaged in the interstate OR INTERNATIONAL transportation of passengers operated within the state shall be subject to subdivision three of this section as to the display of the name of the operator thereof, and of such certificate of inspection as to the safety of its appliances, equipment and mechanical operation, as the commissioner may, by rules and regulations require. In respect to such motor vehicle, the commissioner may, in lieu of a certificate of the commissioner, authorize the display of a certificate of inspection issued within a period of [six] TWELVE months last preceding, by a regulatory body of another state, or a province of Canada, having safety standards determined by the commissioner not to be substantially lower than those prescribed by the commissioner. The rules and regulations to be adopted under this subdivision shall insofar as practicable be uniform and the provisions of the vehicle and traffic law so far as applicable and not in conflict with the provisions of this subdivision, shall continue to apply to all such motor vehicles.

5. No motor vehicle with a seating capacity of more than eleven passengers manufactured after December thirty-first, nineteen hundred seventy-five, used in the business of transporting school children for hire or used for the transportation of school children, owned and/or operated by school districts or by any public or private school shall be operated within the state, unless each seat, other than the driver's seat, on such vehicle is equipped with a padded back at least twenty-eight inches in height of a type and specification approved by the commissioner. Any person who operates a motor vehicle in violation of the requirement for such seat backs shall be guilty of a violation, punishable by a fine not exceeding one hundred dollars. The provisions of this subdivision shall not apply to any bus used for the transportation of pupils, teachers and other persons acting in a supervisory capacity to and from school activities and which bus does not receive or discharge passengers on or along the public highways on regularly scheduled routes and which is being operated pursuant to [a permit or certificate of public convenience and necessity] FOR-HIRE OPERATING AUTHORITY issued by the commissioner or by the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION. School buses manufactured or assembled prior to April first, nineteen hundred seventy-seven may not be used to transport pupils, teachers and other persons acting in a supervisory capacity to and from school activities.

1 S 5. The closing paragraph of section 151 of the transportation law,
2 as added by chapter 635 of the laws of 1983, is amended to read as
3 follows:

4 For the purposes of this article, the term "sedan" or "sedans" as used
5 herein shall include private passenger automobiles [larger than a
6 conventional sedan and commonly known as a limousine], but shall not
7 include [vans or buses] VEHICLES WITH A SEATING CAPACITY OF ELEVEN
8 PERSONS OR MORE INCLUDING THE DRIVER.

9 S 6. Section 210 of the transportation law, as amended by chapter 488
10 of the laws of 1979, is amended to read as follows:

11 S 210. Application of this article. The term "motor truck" as used in
12 this article shall be deemed to mean and include any motor vehicle held
13 and used for the transportation of goods, wares and merchandise for hire
14 or for a business purpose, [including such motor vehicles commonly known
15 as an auto truck or light delivery car] PURSUANT TO THE RULES AND REGU-
16 LATIONS OF THE COMMISSIONER. The term "motor bus" as used in this arti-
17 cle shall be deemed to mean and include any motor vehicle held and used
18 for the transportation of passengers for hire OR FOR A BUSINESS PURPOSE,
19 PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

20 S 7. Section 211 of the transportation law, as amended by chapter 475
21 of the laws of 1996, is amended to read as follows:

22 S 211. General provisions. No driver of a motor truck or motor bus
23 shall drive such vehicle or be on duty for any period of time in excess
24 of that authorized pursuant to regulation of the commissioner. The
25 commissioner is hereby authorized to promulgate rules and regulations
26 governing the hours of service of drivers of motor trucks and motor
27 buses. Such rules and regulations shall be no less protective of public
28 safety than the rules and regulations promulgated by the federal govern-
29 ment with respect to hours of labor of operation of motor trucks and
30 motor buses, provided, however, that with regard to drivers of motor
31 buses [operated exclusively in a town or county or] operated by a public
32 transportation authority operating exclusively within its jurisdictional
33 area, the rules and regulations of the commissioner shall provide that
34 no driver of such motor buses shall drive more than twelve hours follow-
35 ing eight consecutive hours off duty and no driver of such motor buses
36 shall drive for any period after having been on duty for fifteen hours
37 following eight consecutive hours off duty and every driver of such
38 motor buses shall have at least twenty-four consecutive hours off duty
39 in every period of seven consecutive days and in no event shall such a
40 driver be on duty for more than seventy-five hours in any period of
41 seven consecutive days.

42 S 8. Section 212 of the transportation law, as added by chapter 342 of
43 the laws of 1974, subdivision a as amended by chapter 843 of the laws of
44 1980, is amended to read as follows:

45 S 212. Records. [a.] Every driver of a motor truck or motor bus shall
46 keep and carry on the vehicle records showing the day and hour when and
47 the place where he went and was released from duty, whether in this
48 state or outside of this state. The commissioner shall prescribe the
49 form of such records and may require such other information to be shown
50 thereon as he shall deem advisable to insure the proper enforcement of
51 this article. Such records shall be exhibited to the commissioner, his
52 representatives, or to any peace officer, acting pursuant to his special
53 duties or police officer who shall demand to see the same and shall be
54 held available for further inspection for a period of sixty days within
55 the state of New York in an office designated by the owner. Failure to
56 produce such records upon demand shall be presumptive evidence of a

violation of this article relating to keeping such records. In any prosecution for the violation of any of the provisions of this article such records shall be prima facie evidence of the truth of the contents thereof.

[b. The provisions of this article with reference to the carrying of records on the vehicle shall not apply to the operation of a motor bus or motor buses operated on fixed schedules, but this shall not relieve any corporation, company, association, joint-stock association, partnership or person engaged in the operation of a motor bus or motor buses on fixed schedules from the necessity of keeping such records and having them available in an office within the state of New York.]

S 9. Section 214 of the transportation law is REPEALED.

S 10. Paragraph (a) of subdivision 1 of section 14-f of the transportation law, as added by chapter 963 of the laws of 1981, subparagraphs 7 and 8 as amended and subparagraphs 9, 10 and 11 as added by chapter 186 of the laws of 1987, subparagraph 9 as amended by chapter 180 and subparagraph 12 as amended by chapter 190 of the laws of 1989 and the second undesignated paragraph as amended by chapter 402 of the laws of 1993, is amended to read as follows:

(a) Have the power to make rules and regulations governing transportation of hazardous materials, which shall mean a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce, by all modes AS DEFINED BY THE RULES AND REGULATIONS OF THE DEPARTMENT. [For purposes of this section, the term "hazardous materials" shall include the following:

(1) "Irritating material" which shall mean a liquid or solid substance which upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes such as benzylcyanide, chloracetophenone, diphenylaminechlorarsine, and diphenyl chlorarsine, but not including any poisonous material, Class A;

(2) "Poison A" which shall mean those poisonous gases or liquids of such nature that a small amount of the gas, liquid or vapor of the liquid, when in contact with air is dangerous to life. This class includes the following: bromacetone, cyanogen, cyanogen chloride containing less than 0.9 percent water, diphosgene, ethyldichlorarsine, hydrocyanic acid, methyldichlorarsine, nitrogen peroxide (tetroxide), phosgene (diphosgene), nitrogen tetroxide - nitric oxide mixtures containing up to 33.2 percent weight nitric oxide;

(3) "Poison B" which shall mean those substances, liquid or solid (including pastes and semi-solids), other than Class A poisons or irritating materials, which are known to be so toxic as to be a hazard to health;

(4) "Corrosive materials" which shall mean those acids, alkaline caustic liquids and other corrosive liquids or solids which when in contact with living tissue, will cause severe damage of such tissue by chemical action; or in the case of leakage, will materially damage or destroy other freight by chemical action; or are liable to cause fire when in contact with organic matter or with certain chemicals that cause visible destruction or irreversible alteration in human skin tissue at the site of contact;

(5) "Oxidizing materials" which shall mean those substances such as a chlorate, permanganate, peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter;

(6) "Flammable solids" which shall mean any solid material, other than one designated an explosive, as further defined in this section, which under conditions incident to transportation, cause fires through fric-

tion, through absorption of moisture, through spontaneous chemical changes, or as a result of retained heat from the manufacturing or processing. Included in this class are spontaneously combustible and water-reactive materials;

(7) "Flammable liquids" which shall mean any liquid, except any liquid meeting the definition of subparagraph nine, ten or eleven of this paragraph, which gives off flammable vapors below a temperature of one hundred degrees Fahrenheit;

(8) "Radioactive materials" which shall mean irradiated nuclear reactor fuel and the waste by-products of reprocessed irradiated nuclear reactor fuel and any other material or combination of materials that spontaneously emits ionizing radiation which the commissioner of transportation determines by regulation to present significant potential threat to public health and safety;

(9) "Liquefied compressed gas" which shall mean a gas liquefied through compression and under charged pressure is partially liquid at a temperature of seventy degrees Fahrenheit;

(9) "Regulated medical waste" which shall be defined as provided in subdivision one of section 27-1501 of the environmental conservation law.

(10) "Cryogenic liquid" which shall mean a refrigerated liquefied gas having a boiling point colder than minus one hundred thirty degrees Fahrenheit (minus ninety degrees centigrade) at one atmosphere absolute;

(11) "Flammable compressed gas" which shall mean any material or mixture having in the container an absolute pressure exceeding forty p.s.i. at seventy degrees Fahrenheit, or, regardless of the pressure at seventy degrees Fahrenheit, having an absolute pressure exceeding one hundred four p.s.i. at one hundred thirty degrees Fahrenheit, or any liquid flammable material having a vapor pressure exceeding forty p.s.i. absolute at one hundred degrees Fahrenheit as determined by ASTM test D-323, if any one of the following occurs:

(i) either a mixture of thirteen percent or less, (by volume) with air forms a flammable mixture or the flammable range with air is wider than twelve percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure;

(ii) using the bureau of explosives, association of American railroads flame projection apparatus, the flame projects more than eighteen inches beyond the ignition source with valve open fully, or, the flame flashes back and burns at the valve with any degree of valve opening;

(iii) using the bureau of explosives, association of American railroads open drum apparatus, there is any significant propagation of flame away from the ignition source;

(iv) using the bureau of explosives, association of American railroads close drum apparatus, there is any explosion of the vapor-air mixture in the drum; and

(12) Other identical or similar substances which shall from time to time be identified by the commissioner of transportation by rules and regulations promulgated pursuant to this section as being hazardous materials, provided, however, that this section shall not apply to the regular military or naval forces of the United States; nor to the duly authorized militia of any state or territory thereof; nor to the police or fire departments of this state, or of its counties, cities, towns, villages, agencies or instrumentalities, providing the same are acting within their official capacity and in the performance of their duties.

Such rules and regulations shall be no less protective of public safety than the rules and regulations promulgated by the federal government

1 with respect to the transportation of hazardous materials. The regu-
2 lations shall set forth the criteria for identifying and listing, and a
3 list of hazardous materials subject to this section as may be amended by
4 the commissioner of transportation from time to time in a manner
5 consistent with the state administrative procedure act and consistent
6 with this section. Such regulations shall include specifications for
7 marking and placarding of vehicles transporting hazardous materials as
8 will be applied pursuant to paragraph (a) of subdivision three of this
9 section. The regulations promulgated hereunder shall include notice that
10 a violation of the rules and regulations is subject to a fine or a peri-
11 od of imprisonment, and the rules and regulations shall set forth the
12 penalty provisions contained in subdivision four of this section.
13 Provided, however, that all local laws or ordinances, except those of
14 cities having a population of one million or more, regulating the trans-
15 portation of flammable liquids in trucks, trailers or semi-trailers, are
16 hereby superseded and without force and hereafter no such local law or
17 ordinance shall be adopted to regulate or control the equipment or means
18 of transporting flammable liquids in trucks, trailers or semi-trailers.

19 For the purposes of this section, a "vehicle" shall mean every device
20 in which property may be transported upon a highway, stationary rails or
21 tracks, or on the navigable waterways of the state.]

22 S 11. Subdivision 3 of section 14-g of the transportation law, as
23 amended by chapter 921 of the laws of 1983, is amended to read as
24 follows:

25 3. For the purposes of this section, the term "intercity bus passenger
26 service" shall mean transportation provided to the public on a regular
27 and continuing basis by a person, firm, or corporation authorized to
28 transport passengers in interstate commerce by the [interstate commerce
29 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or in intrastate
30 commerce by the state department of transportation that is primarily
31 intended to satisfy longer distance travel demand between cities, and
32 villages and unincorporated urban places that have a population of two
33 thousand five hundred or more. Such term does not include services that
34 are primarily local or commuter oriented in nature.

35 S 12. Subdivisions 1-a, 1-b and 2 of section 18 of the transportation
36 law, as amended by chapter 199 of the laws of 1987, are amended to read
37 as follows:

38 1-a. The department of transportation is hereby designated the offi-
39 cial state agency to receive all notifications from the [federal inter-
40 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or
41 any other federal or state agency in regard to discontinuance of service
42 or railroad property abandonment proceedings, including notification of
43 applications from railroad companies for any such purposes.

44 1-b. The department of transportation shall promptly inform in writing
45 all interested state agencies, transportation authorities, and every
46 county, city, town and village in which such property is located and the
47 appropriate entity designated by the governor pursuant to title IV of
48 the federal intergovernmental cooperation act of nineteen hundred
49 sixty-eight and the federal office of management and budget circular
50 A-98 of (a) the issuance of any certificate from the [federal interstate
51 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or other
52 federal or state agency authorizing discontinuance of railroad service
53 or abandonment of railroad transportation property, (b) approval of
54 discontinuance of service or a determination of abandonment of railroad
55 transportation property pursuant to this section, and (c) the receipt of

1 an application to release a preferential acquisition right to railroad
2 transportation property pursuant to this section.

3 2. For the purposes of this section, property shall be deemed to be
4 abandoned for railroad transportation purposes (a) when, where required
5 by law, a certificate of abandonment of the railroad line situate there-
6 on has been issued by the [interstate commerce commission] UNITED STATES
7 DEPARTMENT OF TRANSPORTATION and/or any other federal or state agency
8 having jurisdiction thereof; or (b) when such a certificate of abandon-
9 ment is not so required and the use of such property for railroad trans-
10 portation purposes has been discontinued with the intent not to resume.
11 Intent not to resume may be inferred from circumstances. Non-use of the
12 property for railroad transportation purposes for two consecutive years
13 shall create a presumption of abandonment. When use of such property
14 for railroad transportation purposes has been discontinued and upon
15 request of the property owner or his own motion, the commissioner shall
16 undertake an investigation thereof, which may include consultation with
17 the [interstate commerce commission] UNITED STATES DEPARTMENT OF TRANS-
18 PORTATION, and shall render a determination as to whether or not (a) the
19 property owner has definite plans for the use of such property for
20 purposes ordinarily associated with the safe and normal operation of a
21 railroad or associated transportation purposes; (b) such property
22 continues to be suitable for such railroad transportation purposes; and
23 (c) such property is necessary, either presently or in the future, for
24 such railroad transportation purposes. Such property shall be deemed to
25 be abandoned for railroad transportation purposes if the commissioner
26 shall determine that (a) the property owner has no definite plans for
27 the use of such property for purposes ordinarily associated with the
28 safe and normal operation of a railroad or associated transportation
29 purposes; or (b) such property is no longer suitable for such railroad
30 transportation purposes; and (c) such property is not necessary, either
31 presently or in the future, for such railroad transportation purposes.
32 The commissioner shall render such determination within ninety days
33 after the commencement of such investigation and such determination
34 shall be conclusive except that if the property is determined not to be
35 so abandoned such determination shall not preclude the undertaking of a
36 subsequent investigation concerning the same property. Sales of aban-
37 doned railroad transportation property for continued or resumed rail
38 transportation use may be exempted at the commissioner's discretion from
39 the preferential right of acquisition. This section shall not apply to
40 the subsequent resale of property lawfully acquired subject to the
41 provisions of this section as then applicable, except when the subse-
42 quent sale involves property previously exempted from this section by
43 the commissioner.

44 S 13. Section 98 of the transportation law, as added by chapter 267 of
45 the laws of 1970, is amended to read as follows:

46 S 98. Tariff schedules; publication. Every common carrier shall file
47 with the commissioner and shall print and keep open to public inspection
48 schedules showing the rates, fares and charges for the transportation of
49 passengers and property within the state between each point upon its
50 route and all other points thereon; and between each point upon its
51 route and all points upon every route leased, operated or controlled by
52 it; and between each point on its route or upon any route leased, oper-
53 ated or controlled by it and all points upon the route of any other
54 common carrier, whenever a through route and joint rate shall have been
55 established or ordered between any two such points. If no joint rate
56 over a through route has been established, the several carriers in such

1 through route shall file, print and keep open to public inspection, as
2 aforesaid, the separately established rates, fares and charges applied
3 to the through transportation. The schedules printed as aforesaid shall
4 plainly state the places between which property and passengers will be
5 carried, and shall also contain the classification of passengers or
6 property in force, and shall also state separately all terminal charges,
7 storage charges, icing charges, and all other charges which the commis-
8 sioner may require to be stated, all privileges or facilities granted or
9 allowed, and any rules or regulations which may in anywise change,
10 affect or determine any part, or the aggregate of, such aforesaid rates,
11 fares and charges, or the value of the service rendered to the passen-
12 ger, shipper or consignee. Such schedules shall be plainly printed in
13 large type, and a copy thereof shall be kept by every such carrier read-
14 ily accessible to and for convenient inspection by the public in every
15 station or office of such carrier where passengers or property are
16 respectively received for transportation, when such station or office is
17 in charge of an agent, and in every station or office of such carrier
18 where passenger tickets for transportation or tickets covering sleeping
19 or parlor car or other train accommodation are sold or bills of lading
20 or receipts for property are issued. All or any of such schedules kept
21 as aforesaid shall be immediately produced by such carrier for
22 inspection upon the demand of any person. A notice printed in bold type
23 and stating that such schedules are on file with the agent and open to
24 inspection by any person and that the agent will assist any such person
25 to determine from such schedules any transportation rates or fares or
26 rules or regulations which are in force shall be kept posted by the
27 carrier in two public and conspicuous places in every such station or
28 office. The form of every such schedule shall be prescribed by the
29 commissioner and shall conform in the case of railroad company as nearly
30 as may be to the form of schedule required by the [interstate commerce
31 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the act of
32 congress entitled "An act to regulate commerce," approved February
33 fourth, eighteen hundred and eighty-seven and the acts amendatory there-
34 of and supplementary thereto. The commissioner shall have power, from
35 time to time, in his discretion, to determine and prescribe by order
36 such changes in the form of such schedules as may be found expedient,
37 and to modify the requirements of this section in respect to publishing,
38 posting and filing of schedules either in particular instances or by
39 general order applicable to special or peculiar circumstances or condi-
40 tions.

41 S 14. Section 126 of the transportation law, as added by chapter 267
42 of the laws of 1970, is amended to read as follows:

43 S 126. Uniform system of accounts; access to accounts; forfeitures.
44 The commissioner may, whenever he deems advisable, establish a system of
45 accounts to be used by common carriers which are subject to his super-
46 vision, or may classify the said carriers and prescribe a system of
47 accounts for each class, and may prescribe the manner in which such
48 accounts shall be kept. He may also in his discretion prescribe the
49 forms of accounts, records and memoranda to be kept by such carriers,
50 including the accounts, records and memoranda of the movement of traffic
51 as well as the receipts and expenditures of moneys. Notice of alter-
52 ations by the commissioner in the required method or form of keeping a
53 system of accounts shall be given to such persons or carriers by the
54 commissioner at least six months before the same are to take effect. The
55 system of accounts established by the commissioner and the forms of
56 accounts, records and memoranda prescribed by him as provided above

1 shall conform in the case of railroad companies as nearly as may be to
2 those from time to time established and prescribed by the [interstate
3 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under
4 the provisions of the act of congress entitled "An act to regulate
5 commerce" approved February fourth, eighteen hundred eighty-seven, and
6 the acts amendatory thereof or supplementary thereto. The commissioner
7 shall at all times have access to all accounts, records and memoranda
8 kept by common carriers and may designate any officers or employees of
9 the department who shall thereupon have authority under the order of the
10 commissioner to inspect and examine any and all accounts, records and
11 memoranda kept by such carriers. The commissioner may, after hearing,
12 prescribe by order the accounts in which particular outlays and receipts
13 shall be entered, charged or credited. At any such hearing the burden of
14 proof shall be on the common carrier to establish the correctness of the
15 accounts in which such outlays and receipts have been entered, and the
16 commissioner may suspend a charge or credit pending submission of proof
17 by such carrier. Where the commissioner has prescribed the forms of
18 accounts, records and memoranda to be kept by such carriers it shall be
19 unlawful for them to keep any other accounts, records or memoranda than
20 those so prescribed, or those prescribed by or under authority of the
21 United States.

22 S 15. Section 134 of the transportation law, as added by chapter 267
23 of the laws of 1970, is amended to read as follows:

24 S 134. Duties of commissioner as to interstate traffic. The commis-
25 sioner may investigate interstate freight or passenger rates or inter-
26 state freight or passenger service on railroads within the state, and
27 when such rates are, in the opinion of the commissioner, excessive or
28 discriminatory or are levied or laid in violation of the act of congress
29 entitled "An act to regulate commerce," approved February fourth, eigh-
30 teen hundred and eighty-seven, and the acts amendatory thereof and
31 supplementary thereto, or in conflict with the rulings, orders or regu-
32 lations of the [interstate commerce commission] UNITED STATES DEPARTMENT
33 OF TRANSPORTATION, the commissioner may apply by petition to the [inter-
34 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION
35 for relief or may present to the [interstate commerce commission] UNITED
36 STATES DEPARTMENT OF TRANSPORTATION all facts coming to his knowledge,
37 as to violations of the rulings, orders, or regulations of that commis-
38 sion or as to violations of the said act to regulate commerce or acts
39 amendatory thereof or supplementary thereto.

40 S 16. The opening paragraph of section 432 of the transportation law,
41 as amended by chapter 385 of the laws of 1994 and as further amended by
42 section 1 of part W of chapter 56 of the laws of 2010, is amended to
43 read as follows:

44 The level of railroad participation in the program for the period
45 nineteen hundred eighty-seven through nineteen hundred ninety-one shall
46 depend on the estimated tax abatement as computed by the commissioner of
47 taxation and finance pursuant to either subdivision (c) of section four
48 hundred eighty-nine-j or subdivision (c) of section four hundred eight-
49 y-nine-hh of the real property tax law. The nature of railroad partic-
50 ipation in the program, as set forth below, shall be based on the rail-
51 road's economic or exemption factor under title two-A and title two-B of
52 article four of the real property tax law, as applicable, and the rail-
53 road's size classification as determined by the [interstate commerce
54 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, based on rail-
55 road system gross revenues. Regardless of the level of their partic-
56 ipation, all railroads shall annually certify to the commissioner that

1 to the best of their knowledge and belief such railroads are in substan-
2 tial compliance with the terms and conditions of any contracts they may
3 have with the department.

4 S 17. The opening paragraph of subdivision 1 of section 1690 of the
5 vehicle and traffic law, as amended by chapter 420 of the laws of 2001,
6 is amended to read as follows:

7 Notwithstanding any other provision of law, where the trial of a traf-
8 fic or parking infraction is authorized or required to be tried before
9 the Nassau county district court, and such traffic and parking infrac-
10 tion does not constitute a misdemeanor, felony, violation of subdivision
11 one of section eleven hundred ninety-two, subdivision five of section
12 eleven hundred ninety-two, section three hundred ninety-seven-a, or
13 subdivision (g) of section eleven hundred eighty of this chapter, or a
14 violation of paragraph (b) of subdivision four of section fourteen-f or
15 clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two
16 of section one hundred forty of the transportation law, or any offense
17 that is part of the same criminal transaction, as that term is defined
18 in subdivision two of section 40.10 of the criminal procedure law, as
19 such a misdemeanor, felony, violation of subdivision one of section
20 eleven hundred ninety-two, subdivision two of section eleven hundred
21 ninety-two, section three hundred ninety-seven-a or subdivision (g) of
22 section eleven hundred eighty of this chapter, or a violation of para-
23 graph (b) of subdivision four of section fourteen-f or clause (b) of
24 subparagraph (iii) of paragraph d of subdivision two of section one
25 hundred forty of the transportation law, the administrative judge of the
26 county in which the trial court is located, may assign judicial hearing
27 officers to conduct such a trial. Such judicial hearing officers shall
28 be village court justices or retired judges either of which shall have
29 at least two years of experience conducting trials of traffic and park-
30 ing violations cases and shall be admitted to practice law in this
31 state. Where such assignment is made, the judicial hearing officer shall
32 entertain the case in the same manner as a court and shall:

33 S 18. Subdivision 2 of section 371 of the general municipal law, as
34 amended by chapter 19 of the laws of 2009, is amended to read as
35 follows:

36 2. The Nassau county traffic and parking violations agency, as estab-
37 lished, may be authorized to assist the Nassau county district court in
38 the disposition and administration of infractions of traffic and parking
39 laws, ordinances, rules and regulations and the liability of owners for
40 violations of subdivision (d) of section eleven hundred eleven of the
41 vehicle and traffic law in accordance with section eleven hundred
42 eleven-b of such law, except that such agency shall not have jurisdic-
43 tion over (a) the traffic infraction defined under subdivision one of
44 section eleven hundred ninety-two of the vehicle and traffic law; (b)
45 the traffic infraction defined under subdivision five of section eleven
46 hundred ninety-two of the vehicle and traffic law; (c) the violation
47 defined under paragraph (b) of subdivision four of section fourteen-f of
48 the transportation law and the violation defined under clause (b) of
49 subparagraph (iii) of paragraph [d] C of subdivision two of section one
50 hundred forty of the transportation law; (d) the traffic infraction
51 defined under section three hundred ninety-seven-a of the vehicle and
52 traffic law and the traffic infraction defined under subdivision (g) of
53 section eleven hundred eighty of the vehicle and traffic law; (e) any
54 misdemeanor or felony; or (f) any offense that is part of the same crim-
55 inal transaction, as that term is defined in subdivision two of section
56 40.10 of the criminal procedure law, as a violation of subdivision one

1 of section eleven hundred ninety-two of the vehicle and traffic law, a
2 violation of subdivision five of section eleven hundred ninety-two of
3 the vehicle and traffic law, a violation of paragraph (b) of subdivision
4 four of section fourteen-f of the transportation law, a violation of
5 clause (b) of subparagraph (iii) of paragraph d of subdivision two of
6 section one hundred forty of the transportation law, a violation of
7 section three hundred ninety-seven-a of the vehicle and traffic law, a
8 violation of subdivision (g) of section eleven hundred eighty of the
9 vehicle and traffic law or any misdemeanor or felony.

10 S 19. Subdivision 1 of section 27-1321 of the environmental conserva-
11 tion law, as added by chapter 915 of the laws of 1983, is amended to
12 read as follows:

13 1. Notwithstanding any other provision of law to the contrary, any
14 person who is, by professional training or experience and attainment,
15 qualified to analyze and interpret matters pertaining to the treatment,
16 storage, disposal, or transport of hazardous materials or hazardous
17 wastes, and who voluntarily and without expectation of monetary compen-
18 sation provides assistance or advice in mitigating the effects of an
19 accidental or threatened discharge of any hazardous materials or hazard-
20 ous wastes, or in preventing, cleaning up, or disposing of any such
21 discharge, shall not be subject to a penalty or to civil liability for
22 damages or injuries alleged to have been sustained by any person or
23 entity by reason of an act or omission in the giving of such assistance
24 or advice. For the purposes of this section, the term "hazardous materi-
25 als" shall have the same meaning [given] AS that term [in subdivision
26 one of] IS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF
27 TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law,
28 and the term "hazardous wastes" shall mean those wastes identified or
29 listed pursuant to section 27-0903 of this article and any rules and
30 regulations promulgated thereunder.

31 S 20. Subdivision 1 of section 156-a of the executive law, as amended
32 by section 1 of part D of chapter 1 of the laws of 2004, is amended to
33 read as follows:

34 1. The state fire administrator shall[, in his or her discretion,
35 consult with the fire fighting and code enforcement personnel standards
36 and education commission established pursuant to section one hundred
37 fifty-nine-a of this article, to] establish a specialized hazardous
38 materials emergency response training program for individuals responsi-
39 ble for providing emergency response recovery following incidents
40 involving hazardous materials as SUCH TERM IS defined in [accordance
41 with] REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION
42 PURSUANT TO section fourteen-f of the transportation law. The state fire
43 administrator shall inform all fire companies, municipal corporations
44 and districts, including agencies and departments thereof and all fire-
45 fighters, both paid and volunteer, and related officers and employees
46 and police officers of the implementation and availability of the
47 hazardous materials emergency response training program and shall,
48 subject to the availability of an appropriation, conduct such training
49 with sufficient frequency to assure adequate response to incidents
50 involving hazardous materials and protection of responders in all
51 geographic areas of the state.

52 S 21. This act shall take effect immediately; provided, however that
53 the amendments to subdivision 2 of section 371 of the general municipal
54 law, made by section eighteen of this act shall not affect the expira-
55 tion of such section and shall be deemed to expire therewith.

1

PART H

2 Section 1. Subdivisions 1 and 2 of section 11-0515 of the environ-
3 mental conservation law, as amended by chapter 528 of the laws of 1986,
4 are amended to read as follows:

5 1. The department may issue to any person a license revocable at its
6 pleasure to collect or possess fish, wildlife, shellfish, crustacea, OR
7 aquatic insects, birds' nests or eggs for propagation, banding, scien-
8 tific or exhibition purposes. The department in its discretion may
9 require an applicant to pay a license fee of ten dollars, [to submit
10 written testimonials from two well-known persons] and to file a bond of
11 two hundred dollars to be approved by the department that he OR SHE will
12 not violate any provisions of this article. Each licensee shall file
13 with the department [on or before February 1] a report [of his oper-
14 ations during the preceding calendar year] CONTAINING SUCH INFORMATION
15 AS THE DEPARTMENT MAY REQUIRE. Such license shall be [effective until
16 revoked] IN FORCE FOR ONE YEAR ONLY AND SHALL NOT BE TRANSFERABLE.

17 2. The department may also issue a license revocable at its pleasure
18 to possess and sell protected fish, wildlife, shellfish, crustacea or
19 aquatic insects for propagation, scientific or exhibition purposes. The
20 department in its discretion may require a license fee of ten dollars.
21 Such license shall be in force for one year only and shall not be trans-
22 ferable. Each licensee shall [make] FILE WITH THE DEPARTMENT a report
23 [of his or her operations at the expiration of the license] CONTAINING
24 SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Fish, wildlife, shellf-
25 ish, crustacea or aquatic insects lawfully possessed under this section
26 may be sold at any time by the licensee for propagation, scientific or
27 exhibition purposes only.

28 S 2. Subdivision 1 of section 11-0521 of the environmental conserva-
29 tion law, as amended by chapter 600 of the laws of 1993, is amended to
30 read as follows:

31 1. The department may direct any environmental conservation officer,
32 or issue a permit to any person, to take any wildlife at any time when-
33 ever it becomes a nuisance, destructive to public or private property or
34 a threat to public health or welfare, provided, however, that where such
35 wildlife is a bear, no such permit shall be issued except upon proof of
36 damage to such property or threat to public health or safety presented
37 to the department. Upon presentation of such proof, the department may
38 issue a permit authorizing the use of trained tracking dogs pursuant to
39 section 11-0928 of this article, and, if the department has determined
40 that no other alternative is feasible, a separate permit to take the
41 bear. Wildlife so taken shall be disposed of as the department may
42 direct. ANY PERSON, AGENCY, CORPORATION OR MUNICIPALITY WHO OBTAINS A
43 MIGRATORY BIRD DEPREDATION PERMIT OR ORDER ISSUED BY THE FEDERAL DEPART-
44 MENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 13 AND 50 C.F.R. 21, AS MAY
45 BE AMENDED FROM TIME TO TIME, SHALL NOT BE REQUIRED TO OBTAIN A PERMIT
46 FROM THE DEPARTMENT TO CONDUCT THE AUTHORIZED ACTIVITIES.

47 S 3. Subdivisions 6 and 9 of section 11-0523 of the environmental
48 conservation law, subdivision 6 as added by chapter 911 of the laws of
49 1990 and subdivision 9 as amended by chapter 114 of the laws of 1981,
50 are amended to read as follows:

51 6. Raccoons, MUSKRATS, coyotes or fox injuring private property may be
52 taken by the owner, occupant or lessee thereof, or an employee or family
53 member of such owner, occupant or lessee, at any time in any manner.

54 9. Varying hares, cottontail rabbits, skunks, black, grey and fox
55 squirrels, raccoons, MUSKRATS, opossums or weasels taken pursuant to

1 this section in the closed season or in a manner not permitted by
2 section 11-0901 shall be immediately buried or cremated. No person shall
3 possess or traffic in such skunks or raccoons or the pelts thereof or in
4 such varying hares or cottontail rabbits or the flesh thereof.

5 S 4. Subdivision 4 of section 11-0524 of the environmental conserva-
6 tion law, as added by chapter 265 of the laws of 2002, is amended to
7 read as follows:

8 4. The fee for a nuisance wildlife control operator license shall be
9 fifty dollars paid annually to be deposited in the conservation fund
10 established pursuant to section eighty-three of the state finance law,
11 PROVIDED, HOWEVER, THAT A MUNICIPALITY SHALL NOT BE SUBJECT TO THIS FEE.

12 S 5. Subdivisions 3 and 4 of section 11-0927 of the environmental
13 conservation law, are amended to read as follows:

14 3. Wild game shall not be taken by shooting or otherwise killed in the
15 course of a field trial. Other game on which a field trial may be held
16 as provided in this section may be taken by shooting in the course of a
17 field trial, except a field trial held on a licensed dog training area,
18 provided a license for such shooting has been procured from the depart-
19 ment. Game so taken shall be immediately [tagged for identification with
20 seals, to be supplied to the licensee] IDENTIFIED ON FORMS PROVIDED by
21 the department [at the price of five cents each, and such seals shall
22 not be removed] until the game is finally prepared for consumption.

23 4. Game so [tagged] IDENTIFIED may be possessed, transported, bought
24 and sold at any time, without limitation by section 11-0917.

25 S 6. Subdivision 2 of section 11-0931 of the environmental conserva-
26 tion law, as amended by chapter 483 of the laws of 2010, is amended to
27 read as follows:

28 2. No firearm or crossbow except a pistol or revolver shall be carried
29 or possessed in or on a motor vehicle unless it is unloaded, for a
30 firearm in both the chamber and the magazine, except that a loaded
31 firearm which may be legally used for taking migratory game birds may be
32 carried or possessed in a motorboat while being legally used in hunting
33 migratory game birds, and no person except a law enforcement officer in
34 the performance of his official duties shall, while in or on a motor
35 vehicle, use a jacklight, spotlight or other artificial light upon lands
36 inhabited by deer if he is in possession or is accompanied by a person
37 who is in possession, at the time of such use, of a longbow, crossbow or
38 a firearm of any kind except a pistol or revolver, unless such longbow
39 is unstrung or such firearm or crossbow is taken down or securely
40 fastened in a case or locked in the trunk of the vehicle. For purposes
41 of this subdivision, motor vehicle shall mean every vehicle or other
42 device operated by any power other than muscle power, and which shall
43 include but not be limited to automobiles, trucks, motorcycles, trac-
44 tors, trailers and motorboats, snowmobiles and snowtravelers, whether
45 operated on or off public highways. Notwithstanding the provisions of
46 this subdivision, the department may issue a permit to any person who is
47 non-ambulatory, except with the use of a mechanized aid, to possess a
48 loaded firearm in or on a motor vehicle as defined in this section,
49 subject to such restrictions as the department may deem necessary in the
50 interest of public safety[, and for a fee of five dollars]. Nothing in
51 this section permits the possession of a pistol or a revolver contrary
52 to the penal law.

53 S 7. Subdivision 2 of section 11-0931 of the environmental conserva-
54 tion law, as amended by section 50 of part F of chapter 82 of the laws
55 of 2002, is amended to read as follows:

1 2. No firearm except a pistol or revolver shall be carried or
2 possessed in or on a motor vehicle unless it is unloaded in both the
3 chamber and the magazine, except that a loaded firearm which may be
4 legally used for taking migratory game birds may be carried or possessed
5 in a motorboat while being legally used in hunting migratory game birds,
6 and no person except a law enforcement officer in the performance of his
7 official duties shall, while in or on a motor vehicle, use a jacklight,
8 spotlight or other artificial light upon lands inhabited by deer if he
9 is in possession or is accompanied by a person who is in possession, at
10 the time of such use, of a longbow, crossbow or a firearm of any kind
11 except a pistol or revolver, unless such longbow is unstrung or such
12 firearm is taken down or securely fastened in a case or locked in the
13 trunk of the vehicle. For purposes of this subdivision, motor vehicle
14 shall mean every vehicle or other device operated by any power other
15 than muscle power, and which shall include but not be limited to automo-
16 biles, trucks, motorcycles, tractors, trailers and motorboats, snowmo-
17 biles and snowtravelers, whether operated on or off public highways.
18 Notwithstanding the provisions of this subdivision, the department may
19 issue a permit to any person who is non-ambulatory, except with the use
20 of a mechanized aid, to possess a loaded firearm in or on a motor vehi-
21 cle as defined in this section, subject to such restrictions as the
22 department may deem necessary in the interest of public safety[, and for
23 a fee of five dollars]. Nothing in this section permits the possession
24 of a pistol or a revolver contrary to the penal law.

25 S 8. Section 11-1003 of the environmental conservation law, as amended
26 by section 51 of part F of chapter 82 of the laws of 2002, is amended to
27 read as follows:

28 S 11-1003. Falconry license.

29 Any resident of this state may be issued a falconry license. The
30 department shall prescribe and furnish forms for application for such
31 license. The fee for the license shall be [twenty] FORTY dollars.
32 Falconry licenses shall expire on December 31 every [second] FIFTH year
33 and shall be renewable at the discretion of the department. A falconry
34 license shall authorize the licensee to obtain, buy, sell, barter,
35 possess and train raptors for falconry and to engage in falconry,
36 provided that no game shall be taken or killed except during an open
37 season therefor, and further provided that such licensee shall also
38 possess a license pursuant to this chapter which authorizes the holder
39 to hunt wildlife. Any non-resident, who legally possesses a raptor
40 where he or she resides and who may legally engage in falconry where he
41 or she resides, may engage in falconry in New York without a falconry
42 license provided he or she possesses a valid non-resident hunting
43 license.

44 S 9. Section 11-1721 of the environmental conservation law, subdivi-
45 sion 2 as amended by chapter 528 of the laws of 1986, is amended to read
46 as follows:

47 S 11-1721. [Tagging] IDENTIFICATION of carcasses and parts thereof.

48 1. The provisions of this section apply to carcasses and parts thereof
49 of

50 a. domestic game killed on the premises of the holder of a domestic
51 game bird breeder's license PURSUANT TO SECTION 11-1901 OF THIS ARTICLE,
52 domestic game animal breeder's license PURSUANT TO SECTION 11-1905 OF
53 THIS ARTICLE or shooting preserve license PURSUANT TO SECTION 11-1903 OF
54 THIS ARTICLE;

55 b. [domestic game raised outside the state on the premises of a holder
56 of a certificate under section 11-1715, subdivision 1;

1 c. foreign game imported from outside the United States;

2 d. wild deer (other than white-tailed deer), moose, elk, caribou and
3 antelope, coming from outside the state, imported pursuant to section
4 11-1711;

5 e.] bear possessed under license pursuant to section 11-0515 or
6 outside the state under a license similar in principle and killed for
7 food purposes[, and bought and sold for such purpose under permit from
8 the department pursuant to section 11-1713];

9 [f.] C. trout, black bass, lake trout, landlocked salmon, muskellunge,
10 pike, pickerel and walleye taken from fishing preserve waters licensed
11 pursuant to section 11-1913.

12 2. All such [game] CARCASSES AND PARTS shall be [tagged] IDENTIFIED
13 with a [tag or seal, which shall be supplied] FORM PROVIDED by the
14 department [for a fee of five cents for each tag or seal. The tag or
15 seal shall be affixed to each game bird, and in the case of foreign game
16 shall be affixed to the breast skin, and to the flesh of each quarter
17 and loin of other game, and shall remain so affixed until the game is
18 finally prepared for consumption. Trout, black bass, lake trout, land-
19 locked salmon, muskellunge, pike, pickerel and walleye taken from fish-
20 ing preserve waters licensed pursuant to section 11-1913 shall be tagged
21 as prescribed by the department, with a seal, which shall be supplied by
22 the department for a fee of five cents for each seal].

23 3. [Domestic game killed in this state] CARCASSES AND PARTS shall not
24 be possessed unless [tagged] ACCOMPANIED BY A FORM PROVIDED BY THE
25 DEPARTMENT as required by this section. [Foreign game imported from
26 outside the United States and domestic and wild game coming from outside
27 the state shall be tagged before it is brought into the state or imme-
28 diately upon its receipt within this state by the consignee.

29 4. No person shall counterfeit any seal or tag issued by the depart-
30 ment. No person shall attach such a tag to game which is not game
31 described in subdivision 1, nor attach to any game described in subdivi-
32 sion 1 a tag or seal other than the tag or seal prescribed by the
33 department for the tagging of such game.]

34 S 10. Section 11-1723 of the environmental conservation law is amended
35 to read as follows:

36 S 11-1723. Sale of game and trout; transportation within the state.

37 1. a. Except as provided in paragraph b, game and trout required by
38 section 11-1721 to be [tagged, when so tagged] IDENTIFIED, may be
39 possessed, bought and sold, and subject to section 11-1725 may be trans-
40 ported within and from within to without the state by any means.

41 b. No domestic duck, goose, brant or swan killed by shooting shall be
42 bought or sold unless marked [by having had the hind toe of the right
43 foot removed as provided in subdivision 5 of section 11-1901] IN ACCORD-
44 ANCE WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY
45 THE DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE
46 AMENDED FROM TIME TO TIME.

47 2. No person shall sell or offer for sale any such game or trout
48 unless it is so [tagged] IDENTIFIED.

49 S 11. Section 11-1725 of the environmental conservation law is amended
50 to read as follows:

51 S 11-1725. Shipment by carriers.

52 1. Carriers may receive, and may transport, within and from within to
53 without the state, carcasses and parts thereof of game, described in
54 subdivision 1 of section 11-1721[, tagged] AND IDENTIFIED as provided in
55 that section, when they are also labeled as provided in this section.

1 2. a. When received in this state by a carrier, or transported within
2 or from within to without the state by a carrier, every shipment of game
3 required by section 11-1721 to be [tagged] IDENTIFIED, shall also have
4 attached a card or label with the following data plainly printed or
5 written thereon: names and addresses of consignor and consignee, number
6 and kind of carcasses or parts thereof[, and that the same is (as the
7 case may be) domestic game, imported foreign game, or game imported
8 under permit (in the case of game imported pursuant to section 11-1711
9 or 11-1713)].

10 b. If the consignor is the person who holds the game breeder's license
11 or shooting preserve license[, or the certificate under section 11-1715,
12 or the permit under section 11-1711 or 11-1713,] by authority of which
13 such game (other than imported foreign game) is saleable, or if the game
14 is imported foreign game shipped by a licensed game dealer, the card or
15 label shall also state the name and address of the holder of such
16 license, [certificate or permit] and the number of the license[, certif-
17 icate or permit].

18 3. No carrier or employee thereof shall, while engaged in such busi-
19 ness, transport as owner any fish or game not lawfully saleable. No
20 carrier or employee thereof shall knowingly receive or possess any fish
21 or game, whether packed or unpacked, for shipment for any person, unless
22 (a) if it is game or trout described in section 11-1721, it is [tagged]
23 IDENTIFIED as required by that section, and (b) in any case, it bears
24 the tag, card, IDENTIFICATION or label required by this section or by
25 sections 11-0911, 11-0917, 11-1319 or 11-1913.

26 S 12. Subdivisions 1, 5 and 8 of section 11-1901 of the environmental
27 conservation law, paragraphs a and b of subdivision 1 as amended by
28 chapter 528 of the laws of 1986, are amended to read as follows:

29 1. The department may, in its discretion, issue to an owner or lessee
30 of wholly enclosed lands, or an entire island, a domestic game bird
31 breeder's license permitting him to possess and propagate such species
32 of domestic game birds as, in its opinion, he has facilities for propa-
33 gating on the licensed premises. The license shall expire on March 31
34 [in each] EVERY FIFTH year. The department shall prescribe and furnish
35 forms for application for such license. Applicants shall pay to the
36 department, and the department shall be entitled to receive, fees
37 according to the type of license so issued as follows:

38 a. Class A license, [fifty] TWO HUNDRED dollars. This license shall
39 allow the holder thereof to purchase, possess, propagate, transport and
40 sell domestic game birds, dead or alive, and their eggs.

41 b. Class B license, [ten] FORTY dollars. This license shall allow the
42 holder thereof to purchase, possess and propagate domestic game birds
43 for his own use. Birds may be killed for food or released to the wild
44 for restocking. No live birds or their eggs or carcasses may be sold,
45 exchanged or given away.

46 5. Each such domestic duck, goose, brant and swan [before attaining
47 the age of four weeks] shall be marked [by having the hind toe of the
48 right foot removed, and no such duck, goose, brant or swan, over four
49 weeks of age, may be possessed or sold without such mark] IN ACCORDANCE
50 WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE
51 DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED
52 FROM TIME TO TIME. Birds so marked, which have escaped, may be recap-
53 tured by the licensee. [Other such domestic game birds which have
54 escaped may be recaptured by the licensee provided they are marked as
55 prescribed in the rules and regulations of the department.] Escaped
56 birds may be recaptured only on the premises of the licensee. [However,

1 removal of the hind toe of the right foot shall not be required for
2 captive geese, brant and swans, which were adult birds on March 1, 1967
3 and previously had been marked with a V-shaped mark on the web of one
4 foot.]

5 8. [a. The department shall supply tags, for which the licensee shall
6 pay a fee of five cents each, which shall be affixed to the carcass of a
7 domestic game bird and remain so affixed until the bird is finally
8 prepared for consumption. No domestic game bird so killed shall be
9 possessed without such tag, and only an authorized person shall have in
10 his possession such tags.

11 b. Notwithstanding any provision in this section to the contrary, no
12 untagged carcass may be removed from the premises except carcasses which
13 are removed for the purpose of processing. When transporting untagged
14 carcasses for such processing, the bearer must have a statement signed
15 by the licensee stating the number of carcasses being transported and
16 the name and address of the processor. The bearer must also have in his
17 possession tags equal in number to the carcasses transported. The
18 processor or bearer, after picking and dressing the carcasses, shall
19 affix the tags, furnished by the licensee, to each carcass.

20 c. The licensee shall keep records of the number of tags used, and no
21 tags shall be removed from the licensed premises except as provided in
22 this subdivision. If a game bird breeder's license is not renewed on its
23 expiration date, all unused tags and inventory shall be returned to the
24 nearest regional office of the department not later than ten days after
25 the expiration date of the license. There shall be no refund of money
26 for such returned tags, which shall be immediately invalidated.

27 d. The tagging required by this subdivision shall constitute compli-
28 ance with the tagging requirements of section 11-1721. Carcasses of
29 domestic game birds, tagged as provided in this subdivision, may be
30 possessed, bought, sold, offered for sale and transported, to the extent
31 permitted by sections 11-1719 and 11-1723.] DOMESTIC GAME BIRD CARCASSES
32 AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS
33 ARTICLE.

34 S 13. Subdivisions 2, 4 and 6 of section 11-1903 of the environmental
35 conservation law are REPEALED and subdivisions 1, 3, 7, and 10, para-
36 graph c of subdivision 1 as amended by chapter 528 of the laws of 1986,
37 subdivision 3 as amended by chapter 465 of the laws of 1976, and para-
38 graph d of subdivision 7 as amended by chapter 37 of the laws of 1978,
39 are amended to read as follows:

40 1. The department may, in its discretion, issue to an owner or lessee
41 of wholly enclosed lands or an entire island a shooting preserve license
42 permitting him OR HER to purchase, possess, rear and transport, and to
43 release and take by shooting therein, domestic game birds legally
44 possessed or acquired. No birds may be held for propagation after [March
45 31] APRIL 15 unless the owner or lessee also has a domestic game bird
46 breeder's license as provided for in section 11-1901. In the case of
47 leased lands, the applicant shall furnish with his OR HER application
48 evidence of a written lease executed by each lessor covering the prem-
49 ises to be licensed. The license shall expire on [March 31 in each]
50 APRIL 15 EVERY FIFTH year. The department shall prescribe and furnish
51 forms for application for such license. Applicants shall pay, and the
52 department shall be entitled to receive, fees according to the type of
53 license issued as follows:

54 a. Class A license, [fifty] TWO HUNDRED dollars [for the first one
55 hundred acres and five dollars for each additional one hundred acres or
56 portion thereof comprising the premises described in the application].

1 This license shall allow the holder thereof to operate a commercial CLUB
2 OR MEMBERSHIP shooting preserve WITH A MINIMUM OF ONE HUNDRED ACRES and
3 charge a daily fee for hunting or charge a fee for each bird killed or a
4 combination thereof. Birds may be killed by the licensee for his OR HER
5 own use and may be sold dead or alive.

6 b. [Class B license, twenty-five dollars for the first one hundred
7 acres and two dollars and fifty cents for each additional one hundred
8 acres or portion thereof comprising the premises described in the appli-
9 cation. This license shall allow the holder thereof to operate a nonpro-
10 fit shooting preserve or a nonprofit club or membership shooting
11 preserve with use limited to members and guests. Birds may be killed by
12 the licensee for his own use but no live birds, or their eggs, or
13 carcasses may be sold unless the licensee holds a Class A game bird
14 breeder's license.

15 c.] Class [C] B license, [fifteen] SIXTY dollars [for the first one
16 hundred acres and two dollars for each additional one hundred acres or
17 portion thereof comprising the premises described in the application].
18 This license shall allow the holder thereof to operate a shooting
19 preserve with use restricted to the licensee, his OR HER family and
20 invitees, provided no fees are charged for the privilege of hunting or
21 for birds shot. Birds may be killed by the licensee for his OR HER own
22 use but no live birds, or their eggs, or carcasses may be sold unless
23 the licensee holds a Class A game bird breeder's license.

24 3. The department may revoke the license of any licensee convicted of
25 a violation of this section, and no license shall be issued to him OR
26 HER for the ensuing two years. The licensee, unless he OR SHE shall
27 waive such right, shall have an opportunity to be heard. Notice of hear-
28 ing shall be given by mailing the same in writing to the licensee at the
29 address contained in his OR HER license. Attendance of witnesses may be
30 compelled by subpoena. Revocation shall be deemed an administrative act
31 reviewable by the supreme court as such.

32 7. Domestic game birds may not be killed, by shooting, on the premises
33 specified in the application for the license, except under the following
34 conditions:

35 a. Birds [must be at least fourteen weeks of age before liberation.
36 Ducks, geese, brant and swans] shall be marked [by having had the hind
37 toe of the right foot removed, except] as provided in subdivision 5 of
38 section 11-1901[, and no such duck, goose, brant or swan, over four
39 weeks of age, may be possessed, sold or killed by shooting without such
40 mark]. Birds so marked, which have escaped, may be recaptured by the
41 licensee. [Other such domestic game birds which have escaped may be
42 recaptured by the licensee provided they are marked as prescribed in the
43 rules and regulations of the department.] Escaped birds may be recap-
44 tured only on the premises of the licensee.

45 [b. Before any shooting of domestic game birds may be done on a
46 licensed shooting preserve the licensee must advise the department in
47 writing of the numbers of each species of domestic game birds reared,
48 purchased or otherwise acquired for liberation, and request and receive
49 in writing a shooting authorization which shall state the numbers of
50 each species of game bird that may be taken by shooting. The number of
51 birds authorized to be taken by shooting shall not be less than eighty
52 per cent of the number liberated.

53 Shooting authorization shall be based on the actual number of birds on
54 hand or on contract at the time of application for such authorization.
55 If birds are purchased, the applicant shall submit one copy of the
56 contract agreement signed by the purchaser and seller on forms furnished

1 by the department. The contract shall state the name, address and
2 license number of the party from whom purchased as well as the numbers
3 of birds purchased and the dates of delivery.

4 c.] B. Ducks, geese, brant and swans liberated under this section may
5 be taken only under rules and regulations made by the department OR
6 ADOPTED BY THE FEDERAL DEPARTMENT OF THE INTERIOR.

7 [d] C. On the premises described in the application for the license,
8 the licensee may kill domestic game birds by shooting from September 1
9 through [March 31] APRIL 15 and in any manner, other than by shooting,
10 at any time, or any person may take domestic game birds by shooting from
11 September 1 through [March 31] APRIL 15 with the consent of the licen-
12 see. [When an investigation made by the department in the month of March
13 of any year reveals that during the current shooting preserve season
14 reasonable opportunities were not afforded to harvest domestic game
15 birds in any area or areas of the state because of abnormal weather
16 conditions, the department shall have power to extend by order the
17 shooting preserve season in such area or areas for a period not to
18 exceed 15 days.]

19 10. a. [The department shall supply tags, for which the licensee shall
20 pay a fee of five cents each, which shall be affixed to the carcass]
21 CARCASSES AND PARTS of [a] domestic game [bird and remain so affixed
22 until the bird is finally prepared for consumption] BIRDS SHALL BE
23 ACCOMPANIED BY A FORM PROVIDED BY THE DEPARTMENT PURSUANT TO SECTION
24 11-1721 OF THIS ARTICLE. No domestic game birds so killed shall be
25 possessed OR TRANSPORTED without such [tag] FORM. Only an authorized
26 person as provided in the rules and regulations of the department shall
27 have in his OR HER possession such [tags] FORM.

28 b. [Notwithstanding any provision in this section to the contrary, no
29 untagged carcass may be removed from the premises except carcasses which
30 are removed for processing. When transporting untagged carcasses for
31 processing, the bearer must have a statement signed by the licensee
32 stating the number of carcasses transported and the name and address of
33 the processor. The bearer must also have in his possession tags equal in
34 number to the carcasses transported. The processor or bearer, after
35 picking and dressing the carcasses, shall affix the tags, furnished by
36 the licensee, to each carcass.

37 c. The licensee shall keep records of the number of tags used. If a
38 shooting preserve license is not renewed on its expiration date, all
39 unused tags on inventory shall be returned to the nearest regional
40 office of the department not later than ten days after the expiration
41 date of the license. There shall be no refund of money for such returned
42 tags, which shall be immediately invalidated.

43 d. The tagging required by this subdivision shall constitute compli-
44 ance with the tagging requirements of section 11-1721. Carcasses of
45 domestic game birds, tagged as provided in this subdivision, may be
46 possessed and transported by all licensees under this section, and they
47 may be bought, sold and offered for sale to the extent permitted by
48 sections 11-1719 and 11-1723, except that no domestic duck, goose, brant
49 or swan shall be bought, sold or killed by shooting unless marked as
50 provided in subdivision 7 of this section] DOMESTIC GAME BIRD CARCASSES
51 AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS
52 ARTICLE.

53 S 14. Subdivisions 1 and 6 of section 11-1905 of the environmental
54 conservation law, the opening paragraph of subdivision 1 as amended by
55 chapter 41 of the laws of 1973, paragraphs a and b of subdivision 1 as

1 amended by chapter 528 of the laws of 1986, are amended to read as
2 follows:

3 1. The department may, in its discretion, issue to an owner or lessee
4 of wholly enclosed lands or an entire island a domestic game animal
5 breeder's license permitting him to possess and propagate domestic game
6 animals provided such animals are confined and cared for according to
7 specifications and regulations which the department, by order, shall
8 adopt. The license shall expire on March 31 [of each] EVERY FIFTH year.
9 The department shall prescribe and furnish forms for application for
10 such license. Applicants shall pay, and the department shall be entitled
11 to receive, fees in accordance with the type of license issued.

12 a. Class A license, [fifty] TWO HUNDRED dollars. This license shall
13 allow the holder thereof to purchase, possess, propagate, transport and
14 sell domestic game animals dead or alive.

15 b. Class B license, [ten] FORTY dollars. This license shall allow the
16 holder thereof to purchase, possess and propagate domestic game animals
17 for his own use. No animals may be sold, exchanged or given away except
18 that portions of the carcass may be given away provided they are pack-
19 aged and the package bears the name and license number of the licensee.

20 6. [a. The department shall supply tags for Class A licenses, for
21 which the licensees shall pay five cents each, which shall be affixed to
22 each quarter and loin of each carcass of domestic game animals killed by
23 Class A licensees and remain so affixed until the game is finally
24 prepared for consumption. No domestic game animal so killed, nor any
25 portion of the carcass thereof, shall be possessed without such tag, and
26 no person shall sell such quarter or loin without such tag attached.

27 b. The tagging required by this subdivision shall constitute compli-
28 ance with the tagging requirements of section 11-1721. Loins or quarters
29 of domestic game animals, killed by Class A licensees and tagged as
30 provided in this subdivision, may be possessed, bought, sold and offered
31 for sale, and transported as provided in section 11-1723 and may be sold
32 and offered for sale by the holder of a Class A license under this
33 section without the game dealer's license provided for in section
34 11-1719.] DOMESTIC GAME ANIMAL CARCASSES AND PARTS SHALL BE IDENTIFIED
35 AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

36 S 15. Section 11-1907 of the environmental conservation law is amended
37 by adding a new subdivision 3 to read as follows:

38 3. ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, THE DEPARTMENT SHALL
39 NOT ISSUE ANY NEW LICENSES PURSUANT TO THIS SECTION.

40 S 16. Subparagraph 4 of paragraph b of subdivision 2 and subdivision 6
41 of section 11-1913 of the environmental conservation law, paragraph a of
42 subdivision 6 as amended by chapter 528 of the laws of 1986, are amended
43 to read as follows:

44 (4) specify the manner of [tagging] IDENTIFICATION OF fish taken from
45 the licensed waters, and

46 6. a. All trout, black bass, lake trout, landlocked salmon, muskel-
47 lunge, pike, pickerel and walleye taken from the licensed fishing
48 preserve waters, shall be immediately [tagged] IDENTIFIED ON FORMS
49 PROVIDED BY THE DEPARTMENT as prescribed in the license or by order of
50 the department. [Such tags shall be furnished by the department and sold
51 to the licensee at the cost of five cents per tag.]

52 b. The [tag so affixed] IDENTIFICATION FORM shall [not be removed
53 from] ACCOMPANY the fish until the same is finally prepared for consump-
54 tion.

55 c. No fish, required to be [tagged] IDENTIFIED as specified in para-
56 graph a of this subdivision, taken pursuant to this section shall be

1 possessed off the premises of the fishing preserve without such [tag]
2 IDENTIFICATION FORM, and no person shall sell such fish without such
3 [tag attached, except for scientific, exhibition or stocking purposes]
4 IDENTIFICATION FORM.

5 d. Fish taken from such fishing preserves and [tagged] IDENTIFIED as
6 provided in this subdivision, may be possessed, bought, sold and offered
7 for sale, and transported without restriction. Fish raised or possessed
8 under license issued under this section may be sold at any time for
9 scientific, exhibition, propagation or stocking purposes.

10 S 17. Subdivision 14 of section 13-0309 of the environmental conserva-
11 tion law, as amended by section 1 of part A of chapter 59 of the laws of
12 2006, is amended to read as follows:

13 14. The department, until April first, two thousand [ten] SIXTEEN
14 shall be entitled to collect fifteen cents per bushel of surf clams and
15 ten cents per bushel of ocean quahogs taken from all certified waters to
16 be deposited in the surf clam/ocean quahog account as provided in
17 section eighty-three of the state finance law.

18 S 18. Subdivision 3 of section 11-0103 of the environmental conserva-
19 tion law, as added by chapter 664 of the laws of 1972, is amended to
20 read as follows:

21 3. "Wild game" means all game, except (a) domestic game bird and
22 domestic game animal as defined in subdivision 4; (b) carcasses of
23 foreign game as defined in section 11-1717, imported from outside the
24 United States [and tagged as provided in section 11-1721]; (c) game
25 propagated or kept alive in captivity as provided in section 11-1907;
26 (d) game imported alive pursuant to license of the department, or arti-
27 ficially propagated, until such game is liberated; and (e) game so
28 imported or propagated when liberated for the purpose of a field trial
29 and taken during the field trial for which it was liberated.

30 S 19. Subdivision 2 of section 11-1717 of the environmental conserva-
31 tion law, as added by chapter 664 of the laws of 1972, is amended to
32 read as follows:

33 2. The carcasses, or parts thereof, of foreign game imported from
34 outside the United States may be bought and sold [when tagged as
35 required in section 11-1721, subject to the provisions of section
36 11-1719 with respect to dealers' licenses].

37 S 20. This act shall take effect immediately, except that if this act
38 shall have become a law on or after April 1, 2012 this act shall take
39 effect immediately and shall be deemed to have been in full force and
40 effect on and after April 1, 2012; provided that the amendments to
41 subdivision 2 of section 11-0931 of the environmental conservation law
42 made by section six of this act shall be subject to the expiration and
43 reversion of such subdivision pursuant to chapter 483 of the laws of
44 2010, as amended, when upon such date the provisions of section seven of
45 this act shall take effect.

46 PART I

47 Section 1. Section 2 of the public service law is amended by adding a
48 new subdivision 28 to read as follows:

49 28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE"
50 WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES
51 REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE
52 TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTO-
53 COL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C)
54 PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC

1 SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED
2 TELEPHONE NETWORK.

3 S 2. Paragraph d of subdivision 1 of section 5 of the public service
4 law, as amended by chapter 155 of the laws of 1970, is amended to read
5 as follows:

6 d. To every telephone line which lies wholly within the state and that
7 part within the state of New York of every telephone line which lies
8 partly within and partly without the state and to the persons or corpo-
9 rations owning, leasing or operating any such telephone line. NOTWITH-
10 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMIS-
11 SION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR
12 AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE
13 AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
14 VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING
15 IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGEN-
16 CIES TO ENFORCE SUCH REQUIREMENTS AS ARE OTHERWISE EXPRESSLY PROVIDED
17 FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911
18 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS
19 RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON
20 VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY,
21 OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR
22 AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE
23 COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C.
24 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGU-
25 LATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS,
26 INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS
27 TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE
28 AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND
29 ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH
30 ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR
31 (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-
32 CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE
33 CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR
34 REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE
35 STATE, INCLUDING CONSUMER PROTECTION, TAXATION OR UNFAIR OR DECEPTIVE
36 TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

37 S 3. Subdivision 1 of section 90 of the public service law, as amended
38 by chapter 414 of the laws of 1981, is amended to read as follows:

39 1. [The] EXCEPT AS PROVIDED IN PARAGRAPH D OF SUBDIVISION ONE OF
40 SECTION FIVE OF THIS CHAPTER, THE provisions of this article shall apply
41 to communication by telegraph or telephone between one point and another
42 within the state of New York and to every telegraph corporation and
43 telephone corporation.

44 S 4. This act shall take effect immediately.

45 PART J

46 Section 1. Paragraph f of subdivision 1 of section 72-0402 of the
47 environmental conservation law, as added by chapter 99 of the laws of
48 2010, is amended to read as follows:

49 f. In any case where a generator EITHER (I) recycles more than ninety
50 percent of the [amount] TOTAL TONS of hazardous waste or more than nine-
51 ty percent of the [amount] TOTAL TONS of hazardous wastewater WHICH it
52 [produces in any] GENERATED DURING THAT calendar year, as certified to
53 the commissioner, [upon which a fee is imposed pursuant to this section,
54 any such fee imposed or to be imposed in such case] OR (II) RECYCLES

MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTE OR MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTEWATER WHICH IT GENERATED IN THAT CALENDAR YEAR, AS CERTIFIED TO THE COMMISSIONER, THE FEE IMPOSED PURSUANT TO THIS SECTION shall be [determined] CALCULATED AND IMPOSED based upon the net amount of hazardous waste or THE NET AMOUNT OF hazardous wastewater generated[, as applicable, which] THAT is not [so] recycled in [such] THAT calendar year, rather than upon the gross [amount] AMOUNTS of hazardous waste [or] AND hazardous wastewater generated in such calendar year.

S 2. This act shall take effect immediately and shall apply to hazardous waste program fee bills issued by the department of environmental conservation after January 1, 2012 for hazardous waste or hazardous wastewater generated during calendar year 2011 or later.

PART K

Section 1. Subdivisions 2 and 4 of section 97-1 of the state finance law, as added by chapter 565 of the law of 1989, are amended to read as follows:

2. The sewage treatment program management and administration fund [shall] MAY consist of (a) all moneys transferred to the state from the water pollution control revolving fund pursuant to section twelve hundred eighty-five-j of the public authorities law, (b) all OR A PORTION OF moneys made available to New York state for the purposes of administering and managing financial assistance provided to municipalities from the water pollution control revolving fund pursuant to the Federal Water Pollution Control Act, and (c) all other moneys credited or transferred thereto from any other fund or source pursuant to law. Notwithstanding the foregoing, no money reserved for planning pursuant to section six hundred four (b) of the Federal Water Pollution Control Act shall be deposited in the sewage treatment program management and administration fund.

4. Moneys in such fund, following appropriation by the legislature, [shall] MAY be used, for the purpose of paying all costs of the department of environmental conservation and New York state environmental facilities corporation for management and administration of the sewage treatment program established by section 17-1909 of the environmental conservation law and of the water pollution control revolving fund established by section twelve hundred eighty-five-j of the public authorities law.

S 2. Subdivisions 2 and 4 of section 97-ddd of the state finance law, as added by chapter 432 of the laws of 1997, are amended to read as follows:

2. The drinking water program management and administration fund [shall] MAY consist of (a) all moneys transferred to the state from the drinking water revolving fund pursuant to section twelve hundred eighty-five-m of the public authorities law, (b) all OR A PORTION OF moneys made available to New York state for purposes of administering and managing financial assistance provided to recipients from the drinking water revolving fund pursuant to the Federal Safe Drinking Water Act, and (c) all other moneys credited or transferred thereto from any other fund or source pursuant to law.

4. Moneys in the fund, following appropriation by the legislature, [shall] MAY be used, for the purpose of paying all costs of the department of health and New York state environmental facilities corporation for management and administration of the drinking water program estab-

lished by title four of article eleven of the public health law and of the drinking water revolving fund established by section twelve hundred eighty-five-m of the public authorities law.

S 3. Subdivisions 5 and 7 of section 1285-j of the public authorities law, subdivision 5 as amended by chapter 134 of the laws of 2007 and subdivision 7 as added by chapter 565 of the laws of 1989, are amended to read as follows:

5. The corporation [shall] MAY make payments to the sewage treatment program management and administration fund in accordance with subdivision seven of this section to reimburse such fund for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of environmental conservation for administering and managing the water pollution control revolving fund program established in section ninety-seven-l of the state finance law, for such costs. Such reimbursement shall be made from (a) available investment earnings on all amounts in the water pollution control revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a municipality; and (b) payments received from a municipality for such purpose pursuant to a project financing agreement or loan agreement; and (c) if the sources of revenue described in this paragraph and paragraphs (a) and (b) of this subdivision are or are anticipated to be insufficient, then from the proceeds of federal capitalization grants, awards or assistance appropriated to the fund for administration and management of such program.

Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation shall make such reimbursement from any other available amounts in the water pollution control revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

7. The corporation [shall] MAY transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-l of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

S 4. Subdivision 7 of section 1285-m of the public authorities law, as added by chapter 413 of the laws of 1996, is amended to read as follows:

7. The corporation [shall] MAY transfer to the state on such schedule as the corporation and the department of health shall agree amounts from the fund to reimburse the state in accordance with the provisions of subdivision five of this section.

S 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2012.

PART L

Section 1. Section 140 of the agriculture and markets law, as added by chapter 631 of the laws of 1955, subdivision 1 as amended by chapter 592 of the laws of 2003, is amended to read as follows:

1 S 140. Samples; publication of results of tests. 1. The commissioner
2 or his or her duly authorized representatives shall take samples of
3 seeds [and submit them to the director of the New York state agricul-
4 tural experiment station] for examination, analysis, and testing BY THE
5 DEPARTMENT. THE COMMISSIONER MAY CONTRACT WITH A QUALIFIED LABORATORY TO
6 PERFORM SUCH EXAMINATION, ANALYSIS, AND TESTING. When the analysis of an
7 official sample indicates that seed is mislabeled, the results of such
8 analysis shall be provided to the person responsible for the labeling of
9 the seed and, upon that person's request, made within fifteen days of
10 his or her receipt of said results, the commissioner or his or her
11 authorized agent shall furnish such person with a portion of the sample
12 taken.

13 2. [The director of the New York state agricultural experiment station
14 shall examine, analyze, or test, or cause to be examined, analyzed or
15 tested such samples of seeds taken under the provisions of this article
16 as shall be submitted to him for that purpose by the commissioner, and
17 shall report the results of such analysis, examination, or testing to
18 the commissioner. For this purpose the New York state agricultural
19 experiment station may establish and maintain trial grounds and a seed
20 laboratory with the necessary equipment, and may employ experts and
21 incur such expense as may be necessary to comply with the requirements
22 of this article.

23 3.] From time to time the [New York state agricultural experiment
24 station, in cooperation with the] department of agriculture and markets,
25 shall make public the results of examinations, analyses, trials, and
26 tests of any sample or samples so procured, together with such addi-
27 tional information as circumstances advise. These published results
28 shall be the property of the state of New York and shall not be used for
29 advertising or regulatory purposes by any person or agency, governmental
30 or otherwise without requested and granted permission of the commission-
31 er [of agriculture and markets].

32 S 2. Section 140-a of the agriculture and markets law, as added by
33 chapter 631 of the laws of 1955, is amended to read as follows:

34 S 140-a. Provision for seed tests. Any citizen of this state shall
35 have the privilege of submitting to the [New York state agricultural
36 experiment station] DEPARTMENT samples of seeds for [test] TESTING and
37 analysis subject to [such rules and regulations as may be adopted by the
38 director of said experiment station and approved by Cornell university]
39 PAYMENT OF A FEE TO THE COMMISSIONER THAT SHALL, AT A MINIMUM, COVER THE
40 FULL COSTS OF THE SERVICES PROVIDED. ALL MONIES RECEIVED BY THE COMMIS-
41 SIONER PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN AN ACCOUNT WITHIN
42 THE MISCELLANEOUS SPECIAL RECEIVE FUND AND SHALL BE USED TO DEFRAY THE
43 EXPENSES INCIDENTAL TO CARRYING OUT THE SERVICES AUTHORIZED BY THIS
44 SECTION.

45 S 3. This act shall take effect immediately.

46

PART M

47 Section 1. Subdivision 25-c of section 16 of the agriculture and
48 markets law, as added by section 1 of part H of chapter 59 of the laws
49 of 2006, is amended to read as follows:

50 25-c. The commissioner may enter into a contract or cooperative agree-
51 ment under which [laboratory] services, INCLUDING, BUT NOT LIMITED TO,
52 LABORATORY SERVICES AND SERVICES RELATING TO FOOD SAFETY AND INSPECTION,
53 ANIMAL HEALTH, INVASIVE SPECIES CONTROL, THE COLLECTION OF SAMPLES FOR
54 RESEARCH STUDIES AND SIMILAR SERVICES RELATING TO THE DUTIES AND RESPON-

1 SIBILITIES of the department may be made available to federal, state,
2 local, and educational entities when, in the commissioner's judgment,
3 such contract or cooperative agreement shall be in the public interest
4 and shall not adversely affect the department's obligations under this
5 chapter. Such contracts or cooperative agreements shall require payment
6 by contractors and cooperators of, at a minimum, the full costs of the
7 services provided. All moneys received by the commissioner pursuant to
8 such contracts and agreements shall be deposited in an account within
9 the miscellaneous special revenue fund and shall be used to defray the
10 expenses incidental to carrying out the services authorized by this
11 subdivision.

12 S 2. This act shall take effect immediately.

13

PART N

14 Section 1. Section 251-z-3 of the agriculture and markets law, as
15 amended by chapter 307 of the laws of 2004, the second undesignated
16 paragraph as amended by section 2 of part II of chapter 59 of the laws
17 of 2009, is amended to read as follows:

18 S 251-z-3. Licenses; fees. No person shall maintain or operate a food
19 processing establishment unless licensed biennially by the commissioner.
20 Application for a license to operate a food processing establishment
21 shall be made, upon a form prescribed by the commissioner[, on or before
22 the fifteenth of the month preceding the applicable license period as
23 herein prescribed. The license period shall begin February fifteenth for
24 applicants who apply for a license between February fifteenth and May
25 fourteenth, May fifteenth for applicants who apply for a license between
26 May fifteenth and August fourteenth, August fifteenth for applicants who
27 apply for a license between August fifteenth and November fourteenth,
28 and November fifteenth for applicants who apply for a license between
29 November fifteenth and February fourteenth]. RENEWAL APPLICATIONS SHALL
30 BE SUBMITTED TO THE COMMISSIONER AT LEAST THIRTY DAYS PRIOR TO THE
31 COMMENCEMENT OF THE NEXT LICENSE PERIOD.

32 The applicant shall furnish evidence of his or her good character,
33 experience and competency, that the establishment has adequate facili-
34 ties and equipment for the business to be conducted, that the establish-
35 ment is such that the cleanliness of the premises can be maintained,
36 that the product produced therein will not become adulterated and, if
37 the applicant is a retail food store, that the applicant has an individ-
38 ual in a position of management or control who has completed an approved
39 food safety education program pursuant to section two hundred fifty-one-
40 z-twelve of this article. The commissioner, if so satisfied, shall issue
41 to the applicant, upon payment of the license fee of four hundred
42 dollars, a license to operate the food processing establishment
43 described in the application. However, the license fee shall be nine
44 hundred dollars for a food processing establishment determined by the
45 commissioner, pursuant to duly promulgated regulations, to require more
46 intensive regulatory oversight due to the volume of the products
47 produced, the potentially hazardous nature of the product produced or
48 the multiple number of processing operations conducted in the establish-
49 ment. The license application for retail food stores shall be accompa-
50 nied by documentation in a form approved by the commissioner which
51 demonstrates that the food safety education program requirement has been
52 met. The license shall take effect on the date of issuance and continue
53 [until the last day of the applicable license period set forth in this
54 section] FOR TWO YEARS FROM SUCH DATE.

1 [Notwithstanding any other provision of law to the contrary, the
2 commissioner is hereby authorized and directed to deposit all money
3 received pursuant to this section in an account within the miscellaneous
4 special revenue fund.]

5 S 2. Subdivision 4 of section 128-a of the agriculture and markets law
6 is REPEALED and subdivisions 5, 6, 7, 8, 9 and 10 are renumbered subdivi-
7 sions 4, 5, 6, 7, 8 and 9.

8 S 3. Subdivision 3 of section 133-a of the agriculture and markets law
9 is REPEALED.

10 S 4. Section 90-b of the state finance law is REPEALED.

11 S 5. This act shall take effect immediately.

12 PART O

13 Section 1. Notwithstanding any law to the contrary, the comptroller is
14 hereby authorized and directed to receive for deposit to the credit of
15 the general fund the amount of up to \$913,000 from the New York state
16 energy research and development authority.

17 S 2. This act shall take effect immediately and shall be deemed to
18 have been in full force and effect on and after April 1, 2012.

19 PART P

20 Section 1. Expenditures of moneys appropriated in a chapter of the
21 laws of 2012 to the energy research and development authority, under the
22 research, development and demonstration program, from the special reven-
23 ue funds - other/state operations, miscellaneous special revenue fund -
24 339, energy research and planning account, and special revenue funds -
25 other/aid to localities, miscellaneous special revenue fund - 339, ener-
26 gy research and planning account shall be subject to the provisions of
27 this section. Notwithstanding the provisions of subdivision 4-a of
28 section 18-a of the public service law, all moneys committed or expended
29 shall be reimbursed by assessment against gas corporations and electric
30 corporations as defined in section 2 of the public service law, and the
31 total amount which may be charged to any gas corporation and any elec-
32 tric corporation shall not exceed one cent per one thousand cubic feet
33 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
34 corporations in their intrastate utility operations in calendar year
35 2010. Such amounts shall be excluded from the general assessment
36 provisions of subdivision 2 of section 18-a of the public service law,
37 but shall be billed and paid in the manner set forth in such subdivision
38 and upon receipt shall be paid to the state comptroller for deposit in
39 the state treasury for credit to the miscellaneous special revenue fund.
40 The director of the budget shall not issue a certificate of approval
41 with respect to the commitment and expenditure of moneys hereby appro-
42 priated until the chair of such authority shall have submitted, and the
43 director of the budget shall have approved, a comprehensive financial
44 plan encompassing all moneys available to and all anticipated commit-
45 ments and expenditures by such authority from any source for the oper-
46 ations of such authority. Copies of the approved comprehensive financial
47 plan shall be immediately submitted by the director of the budget to the
48 chairs and secretaries of the legislative fiscal committees.

49 S 2. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after April 1, 2012.

51 PART Q

1 Section 1. Paragraphs (c) and (d) of subdivision 3 of section 5 of
2 chapter 35 of the laws of 1979, relating to appropriating funds to the
3 New York state urban development corporation for the acquisition and
4 initial planning of convention and exhibition center facilities in New
5 York county, as amended by chapter 3 of the laws of 2004, are amended
6 and a new paragraph (e) is added to read as follows:

7 (c) Enter into such other agreements with the city, the state, the New
8 York state urban development corporation, the operating corporation,
9 Triborough bridge and tunnel authority and the state of New York mort-
10 gage agency as the parties thereto deem appropriate to effectuate the
11 provisions of this act, and to effectuate the expansion project and any
12 convention center hotel and the financing thereof pursuant to the chap-
13 ter of the laws of 2004 which amended this paragraph; [and]

14 (d) If the subsidiary enters into an agreement with the metropolitan
15 transportation authority for the acquisition of the Quill building, then
16 any and all proceeds shall be applied to and used for the metropolitan
17 transportation authority's capital plan[.]; AND

18 (E) SELL, GRANT OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY
19 OWNED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION INCLUD-
20 ING, WITHOUT LIMITATION, THE PROPERTIES IN THE BOROUGH OF MANHATTAN IN
21 THE CITY OF NEW YORK, LOCATED BETWEEN 11TH AND 12TH AVENUES AND 33RD
22 STREET AND 34TH STREET AND BETWEEN 35TH STREET AND 36TH STREET ALONG THE
23 EASTERN BORDER OF 11TH AVENUE, THAT IS DETERMINED BY THE NEW YORK
24 CONVENTION CENTER DEVELOPMENT CORPORATION TO BE UNNECESSARY FOR THE
25 OPERATION OF THE CONVENTION CENTER, THE EXPANSION PROJECT OR ANY CONVEN-
26 TION CENTER HOTEL, SUBJECT TO ANY OBLIGATIONS SET FORTH IN ANY APPLICA-
27 BLE BOND RESOLUTION OR CREDIT SUPPORT AGREEMENT AND SUBJECT TO THE PRIOR
28 APPROVAL OF THE DIRECTOR OF THE BUDGET, PROVIDED THAT ANY PROCEEDS FROM
29 THE DISPOSITION OF THE PROPERTY SHALL BE TRANSFERRED TO THE STATE TREAS-
30 URY TO THE CREDIT OF THE GENERAL FUND.

31 S 2. This act shall take effect immediately.

32 PART R

33 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
34 New York state urban development corporation act, relating to the powers
35 of the New York state urban development corporation to make loans, as
36 amended by section 1 of part G of chapter 60 of the laws of 2011, is
37 amended to read as follows:

38 S 2. This act shall take effect immediately [provided, however, that
39 section one of this act shall expire on July 1, 2012, at which time the
40 provisions of subdivision 26 of section 5 of the New York state urban
41 development corporation act shall be deemed repealed; provided, however,
42 that neither the expiration nor the repeal of such subdivision as
43 provided for herein shall be deemed to affect or impair in any manner
44 any loan made pursuant to the authority of such subdivision prior to
45 such expiration and repeal].

46 S 2. This act shall take effect immediately and shall be deemed to
47 have been in full force and effect on and after April 1, 2012.

48 PART S

49 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
50 of the laws of 1968, constituting the New York state urban development
51 corporation act, is REPEALED.

1 S 2. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2009.

3 PART T

4 Section 1. Subdivisions 27, 28, 29 and 30 of section 5 of section 1 of
5 chapter 174 of the laws of 1968, constituting the New York state urban
6 development corporation act, subdivisions 28 and 29 as renumbered by
7 chapter 686 of the laws of 1986, are renumbered subdivisions 28, 29, 30
8 and 31 and a new subdivision 27 is added to read as follows:

9 (27) TO MAKE GRANTS USING FUNDS FROM ANY SOURCE ON SUCH TERMS AND
10 CONDITIONS AS THE CORPORATION MAY DEEM ADVISABLE, IN FURTHERANCE OF THE
11 LEGISLATIVE FINDINGS AND PURPOSES OF THIS ACT, TO ANY PERSON OR ENTITY,
12 WHETHER PUBLIC OR PRIVATE, PROVIDED THAT SUCH GRANTS ARE MADE OR ISSUED
13 IN COMPLIANCE WITH GUIDELINES ESTABLISHED BY THE CORPORATION.

14 S 2. This act shall take effect immediately.

15 PART U

16 Section 1. Subdivision 1 of section 218 of the state finance law, as
17 amended by chapter 424 of the laws of 2009, is amended to read as
18 follows:

19 1. Linked loans made to certified businesses in empire zones or to
20 eligible businesses in highly distressed areas or to eligible businesses
21 that are defined in paragraph (b-1) of subdivision eleven of section two
22 hundred thirteen of this article that are located in a renewal community
23 or defined in paragraph (b-2) of such subdivision that are located in an
24 empowerment zone or defined in paragraph (b-3) of such subdivision that
25 are located in an enterprise community, respectively for eligible
26 projects defined in paragraph (c) of subdivision twelve of section two
27 hundred thirteen of this article or to minority- or women-owned business
28 enterprises for an eligible project defined in paragraph (e) of subdivi-
29 sion twelve of section two hundred thirteen of this article or to a
30 defense industry manufacturer for a project defined in paragraph (d) of
31 subdivision twelve of section two hundred thirteen of this article OR TO
32 AN ELIGIBLE BUSINESS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ELEVEN OF
33 SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE THAT PRODUCES PRODUCTS
34 DEFINED IN SUBDIVISION TWO OF SECTION THREE HUNDRED ONE OF THE AGRICUL-
35 TURE AND MARKETS LAW FOR AN ELIGIBLE PROJECT AS DEFINED IN PARAGRAPH (B)
36 OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE
37 shall bear interest at a fixed rate equal to three percentage points
38 below the fixed interest rate the lender would have charged for the loan
39 in the absence of a linked deposit based on its usual credit consider-
40 ations. All other linked loans shall bear interest at a fixed rate
41 equal to two percentage points below the fixed interest rate the lender
42 would have charged for the loan in the absence of a linked deposit based
43 on its usual credit considerations. Lenders shall certify to the commis-
44 sioner of economic development that the rate to be charged on a linked
45 loan is two percentage points or three percentage points, as the case
46 may be, below the interest rate the lender would have charged for the
47 loan in the absence of a linked deposit.

48 S 2. Paragraph (a) of subdivision 11 and paragraph (b) of subdivision
49 12 of section 213 of the state finance law, as added by chapter 705 of
50 the laws of 1993, are amended to read as follows:

51 (a) a manufacturing firm OR AGRICULTURAL BUSINESS which employs five
52 hundred or fewer employees within the state on a full-time basis; or

1 (b) for manufacturing, AGRICULTURAL and service firms, projects which
2 involve the preparation of strategic plans for improving productivity
3 and competitiveness; the introduction of modern equipment and/or an
4 expansion of facilities as part of a modernization plan; the introduc-
5 tion of advanced technologies to improve productivity and quality;
6 improvements in production processes and operations, INCLUDING AGRICUL-
7 TURAL OPERATIONS; introduction of computerized information, reporting
8 and control systems; reorganization or improvement of work place systems
9 and the introduction of total quality and employee participation
10 programs; development and introduction of new products; identification
11 and development of new markets, including entry into foreign markets;
12 financial restructuring for purposes of enabling modernization activ-
13 ities; buyouts of viable companies by employees or local owners residing
14 in the state; and the provision of working capital for other moderniza-
15 tion activities that will improve the competitiveness and productivity
16 of a firm and result in the creation or retention of jobs; or
17 S 3. This act shall take effect immediately.

18

PART V

19 Section 1. Notwithstanding any other law, rule or regulation to the
20 contrary, expenses of the department of health public service education
21 program incurred pursuant to appropriations from the cable television
22 account of the state miscellaneous special revenue funds shall be deemed
23 expenses of the department of public service.
24 S 2. This act shall take effect immediately and shall be deemed to
25 have been in full force and effect on and after April 1, 2012.

26

PART W

27 Section 1. Subdivision 10 of section 89-h of the general business law,
28 as amended by chapter 699 of the laws of 2004, is amended to read as
29 follows:
30 10. Fees: pay (a) a fee of [thirty-six] SEVENTY-TWO dollars for proc-
31 essing of the application, investigation of the applicant and for the
32 initial [biennial] FOUR YEAR registration period. Such fees shall be
33 deposited to the credit of the business and licensing services account
34 established pursuant to the provisions of section ninety-seven-y of the
35 state finance law; and (b) a fee pursuant to subdivision eight-a of
36 section eight hundred thirty-seven of the executive law, and amendments
37 thereto, for the cost of the division's full search and retain proce-
38 dures, and a fee as determined by the federal bureau of investigation
39 for the cost of its fingerprint search procedures, which fees shall be
40 remitted by the department to the division and federal bureau of inves-
41 tigation; and
42 S 2. Subdivision 1 of section 89-m of the general business law, as
43 added by chapter 336 of the laws of 1992, is amended to read as follows:
44 1. Registration cards shall expire [two] FOUR years from the date of
45 issuance or last renewal as the case may be. Not less than sixty nor
46 more than ninety days prior to the expiration date of a registration
47 card, the department shall mail to each registrant at his last known
48 address, notice of renewal and a registration renewal form. Registration
49 cards shall not be renewed unless not more than sixty nor less than
50 thirty days prior to the expiration date of the registration card, the
51 holder submits to the department, a registration renewal form sworn to
52 or affirmed by the holder under the penalty of perjury together with a

1 [biennial] renewal fee in the amount of [twenty-five] FIFTY dollars
2 payable to the department and a certificate certifying that the holder
3 has satisfactorily completed the required annual in-service training
4 courses as prescribed by the commissioner pursuant to subdivision one of
5 section eight hundred forty-one-c of the executive law. Unless the
6 department determines the existence of facts which would constitute
7 cause for denial, revocation or suspension of the registration card
8 pursuant to this article, it shall renew the registration card. Denial
9 of renewal hereunder shall be reviewable by an administrative hearing as
10 set forth in section seventy-nine of this chapter. The [twenty-five]
11 FIFTY dollar [biennial] renewal fee collected by the department shall be
12 deposited to the licensing examinations services account established
13 pursuant to the provisions of section 97-aa of the state finance law.
14 Notice that a registration card has expired or has not been renewed
15 pursuant to this section shall be given by the secretary to the holder
16 of such registration card and to the security guard company by which
17 such holder was employed at the time of such expiration or non-renewal.

18 S 3. Subdivision 2 and paragraph (a) of subdivision 3 of section 441
19 of the real property law, subdivision 2 as amended by chapter 81 of the
20 laws of 1995 and paragraph (a) of subdivision 3 as amended by chapter
21 474 of the laws of 2007, are amended to read as follows:

22 2. Renewals. Any license granted under the provision hereof may be
23 renewed by the department upon application therefor by the holder there-
24 of, in such form as the department may prescribe and conforming to the
25 requirements of section 3-503 of the general obligations law, and
26 payment of the fee for such license. In case of application for renewal
27 of license, the department may dispense with the requirement of such
28 statements as it deems unnecessary in view of those contained in the
29 original application for license but may not dispense with the require-
30 ments of section 3-503 of the general obligations law. A renewal period
31 within the meaning of this act is considered as being a period of [two]
32 FOUR years from the date of expiration of a previously issued license.
33 The department shall require any applicant, who does not apply for
34 renewal of license within such period, to qualify by passing the written
35 examination as provided herein, and may require any licensee who has not
36 yet passed the written examination, and who cannot reasonably prove to
37 the satisfaction of the department, that he can meet the competency
38 requirements, to pass the written examination before a renewal of
39 license shall be granted; provided, however, that a person who failed or
40 was unable to renew his license by reason of his induction or enlistment
41 in the armed forces of the United States shall not be required to take
42 or pass such examination.

43 (a) No renewal license shall be issued any licensee under this article
44 for any license period commencing [November first, nineteen hundred
45 ninety-five] APRIL FIRST, TWO THOUSAND SEVENTEEN unless such licensee
46 shall have within the [two] FOUR year period immediately preceding such
47 renewal attended at least [twenty-two and one-half] FORTY-FIVE hours
48 which shall include at least [three] SIX hours of instruction pertaining
49 to fair housing and/or discrimination in the sale or rental of real
50 property or an interest in real property and successfully completed a
51 continuing education real estate course or courses approved by the
52 secretary of state as to method, content and supervision, which approval
53 may be withdrawn if in the opinion of the secretary of state such course
54 or courses are not being conducted properly as to method, content and
55 supervision. APPLICANTS WITH A LICENSE EXPIRING PRIOR TO APRIL FIRST,
56 TWO THOUSAND FIFTEEN, SHALL HAVE WITHIN THE TWO YEAR PERIOD IMMEDIATELY

PRECEDING SUCH RENEWAL ATTENDED AT LEAST TWENTY-TWO AND ONE-HALF HOURS WHICH SHALL INCLUDE AT LEAST THREE HOURS OF INSTRUCTION PERTAINING TO FAIR HOUSING AND/OR DISCRIMINATION IN THE SALE OR RENTAL OF REAL PROPERTY OR AN INTEREST IN REAL PROPERTY AND SUCCESSFULLY COMPLETED A CONTINUING EDUCATION REAL ESTATE COURSE OR COURSES APPROVED BY THE SECRETARY OF STATE AS TO METHOD, CONTENT AND SUPERVISION, WHICH APPROVAL MAY BE WITHDRAWN IF IN THE OPINION OF THE SECRETARY OF STATE SUCH COURSE OR COURSES ARE NOT BEING CONDUCTED PROPERLY AS TO METHOD, CONTENT AND SUPERVISION. The licensee shall provide an affidavit, in a form acceptable to the department of state, establishing the nature of the continuing education acquired and shall provide such further proof as required by the department of state. The provisions of this paragraph shall not apply to any licensed real estate broker who is engaged full time in the real estate business and who has been licensed under this article prior to July first, two thousand eight for at least fifteen consecutive years immediately preceding such renewal.

S 4. Subdivisions 2 and 7 of section 441-a of the real property law, subdivision 2 as amended by chapter 324 of the laws of 1998 and subdivision 7 as amended by chapter 497 of the laws of 1985, are amended to read as follows:

2. Terms. A license issued or reissued under the provisions of this article shall entitle the person, co-partnership, limited liability company or corporation to act as a real estate broker, or, if the application is for a real estate salesman's license, to act as a real estate salesman in this state [up to and including the thirty-first day of October of the year in which the license by its terms expires] FOR A PERIOD OF FOUR YEARS FOLLOWING THE ISSUANCE OF SAID LICENSE.

7. License term. From and after the date when this subdivision shall take effect, the term for which a license shall be issued or reissued under this article shall be a period of [two] FOUR years.

S 5. Subdivision 1 of section 441-b of the real property law, as amended by chapter 324 of the laws of 1998, is amended to read as follows:

1. The fee for a license issued or reissued under the provisions of this article entitling a person, co-partnership, limited liability company or corporation to act as a real estate broker shall be [one hundred fifty] THREE HUNDRED dollars. The fee for a license issued or reissued under the provisions of this article entitling a person to act as a real estate salesman shall be [fifty] ONE HUNDRED dollars. Notwithstanding the provisions of subdivision seven of section four hundred forty-one-a of this article, after January first, nineteen hundred eighty-six, the secretary of state shall assign staggered expiration dates for outstanding licenses that have been previously renewed on October thirty-first of each year from the assigned date unless renewed. [If the assigned date results in a term that exceeds twenty-four months, the applicant shall pay an additional prorated adjustment together with the regular renewal fee.] The secretary of state shall assign dates to existing licenses in a manner which shall result in a term of not less than [two] FOUR years.

S 6. This act shall take effect immediately; provided, however, that sections three, four and five of this act shall take effect April 1, 2013.

1 Section 1. Subdivision 3 of section 235 of the racing, pari-mutuel
2 wagering and breeding law is renumbered subdivision 4 and a new subdivi-
3 sion 3 is added to read as follows:

4 3. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE
5 PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR
6 OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE
7 PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO
8 PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED
9 VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED
10 PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

11 S 2. Paragraph c of subdivision 2 of section 301 of the racing, pari-
12 mutuel wagering and breeding law, as relettered by chapter 211 of the
13 laws of 1999, is relettered paragraph d and a new paragraph c is added
14 to read as follows:

15 C. THE RULES OF THE BOARD SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS
16 MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING
17 THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITH-
18 IN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT
19 TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM
20 UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTAB-
21 LISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

22 S 3. Subdivision 2 of section 401 of the racing, pari-mutuel wagering
23 and breeding law is amended to read as follows:

24 2. Without limiting the generality of the foregoing, and in addition
25 to its other powers:

26 a. [The state racing and wagering board shall have power to fix mini-
27 mum and maximum charges for admission to quarter horse race meetings at
28 which pari-mutuel betting is conducted provided, however, that the state
29 racing and wagering board shall have power to fix the charge for admis-
30 sion of members of the armed forces of the United States in uniform at
31 one-half of the amount fixed for such admission generally under authori-
32 ty of this section.

33 b.] The state racing and wagering board shall prescribe rules and
34 regulations for effectually preventing the use of improper devices, the
35 administration of drugs or stimulants or other improper acts for the
36 purpose of affecting the speed of quarter horses in any race in which
37 they are about to participate.

38 [c.] B. The rules of the board shall also provide that all winning
39 pari-mutuel tickets must be presented for payment before April first of
40 the year following the year of their purchase and failure to present any
41 such ticket within the prescribed period of time shall constitute a
42 waiver of the right to participate in the award or dividend.

43 C. THE RULES OF THE BOARD SHALL ALSO PROVIDE THAT ALL WINNING CASH
44 VOUCHERS MUST BE PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR
45 FOLLOWING THE YEAR OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH
46 VOUCHER WITHIN THE PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER
47 OF THE RIGHT TO PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED
48 FROM UNCASHED VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT
49 ESTABLISHED PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

50 d. The board shall have power in its discretion, consistent with the
51 powers of the state tax commission, to prescribe uniform methods of
52 keeping accounts, records and books to be observed by associations or
53 corporations licensed under the provisions of this article or by any
54 association or corporation which owns stock in, or shares in the
55 profits, or participates in the management or affairs of, such licensed
56 association or corporation, or by any person, firm, association or

1 corporation holding any concession, right or privilege to perform any
2 service or sell any article at any track at which pari-mutuel quarter
3 horse racing meets are conducted. The board may also in its discretion,
4 consistent with the powers of the state tax commission, prescribe by
5 order forms of accounts, records and memoranda to be kept by such
6 persons, firms, associations or corporations. The board shall have power
7 to visit, investigate, and place expert accountants, or such other
8 persons as it may deem necessary, in the offices, tracks or other places
9 of business of any such person, firm, association or corporation for the
10 purpose of seeing that the provisions of sections two hundred twenty-two
11 through seven hundred five of this chapter and rules and regulations
12 issued by the board thereunder are strictly complied with. Such persons,
13 firms, associations or corporations shall annually file with the board,
14 on such date as the board shall prescribe, a report showing their finan-
15 cial condition and financial transactions during the fiscal year,
16 including a balance sheet and a profit and loss statement, verified by
17 the oath of at least two of its principal officers, if it be an associ-
18 ation or corporation having officers, and by one or more of the owners
19 or proprietors thereof if not an association or corporation. The report
20 shall be in such form and contain such other matters as the board may
21 determine from time to time to be necessary to disclose accurately the
22 financial condition and operation of such persons, firms, associations
23 or corporations during the preceding fiscal year. The board may for good
24 cause shown grant a reasonable extension of time for the filing of any
25 such report.

26 S 4. Subdivision 2 of section 529 of the racing, pari-mutuel wagering
27 and breeding law, is renumbered subdivision 3 and a new subdivision 2 is
28 added to read as follows:

29 2. THE RULES SHALL PROVIDE THAT ALL WINNING CASH VOUCHERS MUST BE
30 PRESENTED FOR PAYMENT BEFORE APRIL FIRST OF THE YEAR FOLLOWING THE YEAR
31 OF THEIR PURCHASE AND FAILURE TO PRESENT ANY SUCH VOUCHER WITHIN THE
32 PRESCRIBED PERIOD OF TIME SHALL CONSTITUTE A WAIVER OF THE RIGHT TO
33 PARTICIPATE IN THE AWARD OR DIVIDEND. THE FUNDS RECEIVED FROM UNCASHED
34 VOUCHERS SHALL BE PAID TO THE RACING REGULATION ACCOUNT ESTABLISHED
35 PURSUANT TO SECTION ONE HUNDRED ELEVEN OF THIS CHAPTER.

36 S 5. This act shall take effect immediately; provided, however, that
37 effective immediately, the addition, amendment and/or repeal of any rule
38 or regulation necessary for the implementation of this act on its effec-
39 tive date is authorized and directed to be made and completed on or
40 before such effective date.

41

PART Y

42 Section 1. Section 308 of the racing, pari-mutuel wagering and breed-
43 ing law is amended to read as follows:

44 S 308. Officials at harness horse race meetings. At all harness race
45 meetings licensed by the state racing and wagering board in accordance
46 with the provisions of sections two hundred twenty-two through seven
47 hundred five of this chapter qualified judges and [starters] RACING
48 OFFICIALS shall be designated by the state racing and wagering board.
49 THE LICENSED RACING ASSOCIATIONS AND CORPORATIONS SHALL EMPLOY AND
50 APPOINT ONE ASSOCIATE JUDGE AND THE STARTER TO SERVE AT HARNESS RACE
51 MEETINGS, SUBJECT TO WRITTEN APPROVAL OF THE STATE RACING AND WAGERING
52 BOARD BEFORE ENTERING UPON THE DISCHARGE OF THEIR DUTIES. Such officials
53 shall enforce the rules and regulations of the state racing and wagering
54 board and shall render regular written reports of the activities and

conduct of such race meetings to the state racing and wagering board, PROVIDED HOWEVER, THAT THE JUDGES AND STARTERS EMPLOYED BY THE RACING ASSOCIATION OR CORPORATION SHALL NOT HAVE THE POWER TO IMPOSE FINES OR ISSUE SUSPENSIONS OF OCCUPATIONAL RACING LICENSES.

S 2. Subdivision 8 of section 73 of the public officers law is amended by adding a new paragraph (j) to read as follows:

(J) THE PROVISIONS OF SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT APPLY TO ANY PERSON AS A RESULT OF HIS OR HER EMPLOYMENT BY THE NEW YORK STATE RACING AND WAGERING BOARD IN THE CIVIL SERVICE TITLE OF STARTER OR ASSOCIATE JUDGE WHOSE EMPLOYMENT WAS TERMINATED WITHIN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH AS A RESULT OF THE ABOLITION OF HIS OR HER POSITION.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.

PART Z

Section 1. The agriculture and markets law is amended by adding a new article 21-A to read as follows:

ARTICLE 21-A

DAIRY RESEARCH AND EDUCATION

SECTION 258-S. LEGISLATIVE DECLARATION.

258-T. DEFINITIONS.

258-U. POWERS AND DUTIES OF THE COMMISSIONER.

258-V. RULES AND REGULATIONS; ENFORCEMENT.

S 258-S. LEGISLATIVE DECLARATION. IT IS HEREBY DECLARED THAT THE DAIRY INDUSTRY IS OF VITAL SIGNIFICANCE TO THE STATE'S ECONOMY, SOCIAL FABRIC, AND WELFARE OF THE PEOPLE OF THIS STATE, AND THAT RESEARCH, EDUCATION AND DEVELOPMENT ASSOCIATED WITH DAIRY PRODUCTION IS IMPERATIVE TO ENSURE THAT THE STATE'S DAIRY FARMS AND INDUSTRY REMAIN COMPETITIVE AND PROFITABLE. IT IS THEREFORE DECLARED TO BE THE LEGISLATIVE INTENT AND POLICY OF THE STATE:

1. TO ENABLE MILK PRODUCERS AND OTHERS IN THE DAIRY INDUSTRY, WITH THE AID OF THE STATE, TO MORE ECONOMICALLY AND EFFECTIVELY PRODUCE MILK AND DAIRY PRODUCTS,

2. TO PROVIDE METHODS AND MEANS FOR THE DEVELOPMENT OF NEW, IMPROVED OR INNOVATIVE DAIRY INDUSTRY PRODUCTION PRACTICES, AND TO PROMOTE THEIR USE, AND

3. TO IMPROVE THE ECONOMIC STRENGTH, FARM PROFITABILITY AND WELL-BEING OF THE MILK PRODUCERS OF THIS STATE THROUGH APPLIED RESEARCH, FARMER EDUCATION AND TRAINING.

S 258-T. DEFINITIONS. 1. "ADVISORY BOARD" MEANS THE PERSONS APPOINTED BY THE COMMISSIONER FROM NOMINATIONS FROM PRODUCERS AS HEREIN DEFINED TO ASSIST THE COMMISSIONER IN ADMINISTERING A DAIRY RESEARCH AND EDUCATION ORDER.

2. "AREA" MEANS THE ENTIRE GEOGRAPHIC AREA OF THE STATE OF NEW YORK.

3. "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE AND MARKETS OF THE STATE OF NEW YORK.

4. "COOPERATIVE" MEANS AN ASSOCIATION OR FEDERATION OR COOPERATIVE OF MILK PRODUCERS ORGANIZED UNDER THE LAWS OF NEW YORK STATE, OR ANY OTHER STATE, HAVING AGREEMENTS WITH ITS PRODUCER MEMBERS TO MARKET, BARGAIN FOR OR SELL THE MILK OF SUCH PRODUCERS, AND IS ACTUALLY PERFORMING ONE OR MORE OF THESE SERVICES IN THE MARKETING OF THE MILK PRODUCED BY ITS MEMBERS, THROUGH THE COOPERATIVE OR THROUGH A FEDERATION OF MILK COOPERATIVES IN WHICH THE COOPERATIVE HAS MEMBERSHIP.

5. "DAIRY PRODUCTS" MEANS MILK AND PRODUCTS DERIVED THEREFROM.

1 6. "DAIRY RESEARCH AND EDUCATION ORDER" MEANS AN ORDER ISSUED BY THE
2 COMMISSIONER, PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

3 7 "MILK" MEANS COW'S MILK.

4 8. "MILK DEALER" MEANS ANY PERSON WHO PURCHASES OR HANDLES OR RECEIVES
5 OR SELLS MILK, INCLUDING INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, COOP-
6 ERATIVE ASSOCIATIONS, AND UNINCORPORATED COOPERATIVE ASSOCIATIONS.

7 9. "PRODUCER" MEANS ANY PERSON IN THIS STATE WHO IS ENGAGED IN THE
8 PRODUCTION OF MILK FOR COMMERCIAL USE.

9 S 258-U. POWERS AND DUTIES OF THE COMMISSIONER. 1. IN ORDER TO EFFEC-
10 TUATE THE DECLARED POLICY OF THIS ARTICLE, THE COMMISSIONER MAY, AFTER
11 DUE NOTICE AND OPPORTUNITY FOR HEARING, MAKE AND ISSUE A DAIRY RESEARCH
12 AND EDUCATION ORDER.

13 2. SUCH ORDER SHALL BE ISSUED AND AMENDED OR TERMINATED IN ACCORDANCE
14 WITH THE FOLLOWING PROCEDURES:

15 (A) BEFORE ANY SUCH ORDER MAY BECOME EFFECTIVE IT MUST BE APPROVED BY
16 FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK VOTING IN THE REFERENDUM
17 FOR THE AREA TO BE REGULATED BY SUCH ORDER. SUCH REFERENDUM SHALL NOT
18 CONSTITUTE VALID APPROVAL UNLESS FIFTY-ONE PER CENTUM OF ALL MILK
19 PRODUCERS FOR THE AREA TO BE REGULATED VOTE IN THE REFERENDUM. PRODUCERS
20 MAY VOTE BY INDIVIDUAL BALLOT OR THROUGH THEIR COOPERATIVES IN ACCORD-
21 ANCE WITH THE FOLLOWING PROCEDURES:

22 (I) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A
23 PERIOD OF NINETY DAYS AFTER THE COMMISSIONER HAS ANNOUNCED A REFERENDUM
24 ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND CERTIFIED TO
25 THE COMMISSIONER AS MEMBERS OF SUCH COOPERATIVE, PROVIDED, HOWEVER, THAT
26 ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL SHALL GIVE AT
27 LEAST THIRTY DAYS PRIOR WRITTEN NOTICE TO EACH PRODUCER WHO IS ITS
28 MEMBER, OF THE INTENTION OF THE COOPERATIVE TO APPROVE SUCH PROPOSED
29 ORDER, AND FURTHER PROVIDE THAT IF SUCH COOPERATIVE DOES NOT INTEND TO
30 APPROVE SUCH PROPOSED ORDER, IT SHALL LIKEWISE GIVE WRITTEN NOTICE TO
31 EACH SUCH PRODUCER WHO IS ITS MEMBER, OF ITS INTENTION NOT TO APPROVE OF
32 SUCH PROPOSED ORDER.

33 (II) IN ORDER TO ENSURE THAT ALL MILK PRODUCERS ARE INFORMED REGARDING
34 A PROPOSED ORDER, THE COMMISSIONER SHALL NOTIFY ALL MILK PRODUCERS THAT
35 AN ORDER IS BEING CONSIDERED AND THAT EACH PRODUCER MAY REGISTER
36 APPROVAL OR DISAPPROVAL WITH THE COMMISSIONER EITHER DIRECTLY OR THROUGH
37 THE PRODUCER'S COOPERATIVE.

38 (III) ANY PRODUCER MAY OBTAIN A BALLOT FROM THE COMMISSIONER IN ORDER
39 TO REGISTER HIS OR HER OWN APPROVAL OR DISAPPROVAL OF THE PROPOSED
40 ORDER. INDIVIDUAL BALLOTS SHALL BE CONSIDERED CONFIDENTIAL AND NOT
41 SUBJECT TO PUBLIC DISCLOSURE, EXCEPT SUCH BALLOTS SHALL NOT BE CONSID-
42 ERED CONFIDENTIAL AS DEEMED NECESSARY BY THE COMMISSIONER TO IMPLEMENT
43 THE PURPOSES OF THIS ARTICLE.

44 (IV) A PRODUCER WHO IS A MEMBER OF A COOPERATIVE THAT HAS NOTIFIED THE
45 PRODUCER OF ITS INTENT TO APPROVE OR NOT TO APPROVE A PROPOSED ORDER,
46 AND WHO OBTAINS A BALLOT AND WITH SUCH BALLOT EXPRESSES APPROVAL OR
47 DISAPPROVAL OF THE PROPOSED ORDER, SHALL NOTIFY THE COMMISSIONER AS TO
48 THE NAME OF THE COOPERATIVE OF WHICH THE PRODUCER IS A MEMBER, AND THE
49 COMMISSIONER SHALL REMOVE SUCH PRODUCER'S NAME FROM THE LIST CERTIFIED
50 BY SUCH COOPERATIVE.

51 (V) THE COMMISSIONER MAY APPOINT A REFERENDUM ADVISORY COMMITTEE TO
52 ASSIST AND ADVISE IN THE CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL
53 REVIEW REFERENDUM PROCEDURES AND THE TABULATION OF RESULTS, AND SHALL
54 ADVISE THE COMMISSIONER OF ITS FINDINGS. THE FINAL CERTIFICATION OF THE
55 REFERENDUM RESULTS SHALL BE MADE BY THE COMMISSIONER. THE COMMITTEE
56 SHALL CONSIST OF NOT LESS THAN THREE MEMBERS, NONE OF WHOM SHALL BE

PERSONS DIRECTLY AFFECTED BY THE PROPOSED DAIRY RESEARCH AND EDUCATION ORDER. TWO MEMBERS SHALL BE REPRESENTATIVES OF GENERAL FARM ORGANIZATIONS WHICH ARE NOT DIRECTLY AFFECTED BY THE PROPOSED ORDER. THE MEMBERS OF THE COMMITTEE SHALL NOT RECEIVE A SALARY BUT SHALL BE ENTITLED TO ACTUAL AND REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3. THE COMMISSIONER SHALL ADMINISTER AND ENFORCE ANY SUCH DAIRY RESEARCH AND EDUCATION ORDER WHILE IT IS IN EFFECT, TO:

(A) ENCOURAGE THE STABILITY AND CONTINUED GROWTH OF THE DAIRY INDUSTRY,

(B) PROVIDE FOR RESEARCH AND EDUCATION PROGRAMS DESIGNED TO IMPROVE MILK PRODUCTION AND FARM PROFITABILITY,

(C) CARRY OUT, IN OTHER WAYS, THE DECLARED POLICY AND INTENT OF THIS ARTICLE.

4. THE COMMISSIONER MAY, AND UPON WRITTEN PETITION OF NOT LESS THAN TWENTY-FIVE PER CENTUM OF THE PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, SHALL CALL A HEARING TO CONSIDER AMENDING OR TERMINATING SUCH ORDER, AND ANY SUCH AMENDMENT OR TERMINATION SHALL BE EFFECTIVE ONLY UPON APPROVAL OF FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK FOR THE AREA REGULATED PARTICIPATING IN A REFERENDUM VOTE AS PROVIDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

5. THE COMMISSIONER SHALL PREPARE A BUDGET FOR THE ADMINISTRATION AND OPERATING COSTS AND EXPENSES ASSOCIATED WITH ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED PURSUANT TO THIS ARTICLE.

6. ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE MAY CONTAIN ANY OR ALL OF THE FOLLOWING:

(A) PROVISIONS FOR LEVYING AN ASSESSMENT AGAINST ALL PRODUCERS SUBJECT TO THE ORDER FOR THE PURPOSES OF CARRYING OUT THE PROVISIONS AND PAYING THE COSTS OF ADMINISTERING AND ENFORCING SUCH ORDER. IN ORDER TO COLLECT ANY SUCH ASSESSMENTS, PROVISION SHALL BE MADE FOR EACH MILK DEALER WHO RECEIVES MILK FROM PRODUCERS TO DEDUCT THE AMOUNT OF ASSESSMENT FROM MONEYS OTHERWISE DUE TO PRODUCERS FOR THE MILK SO DELIVERED. THE RATE OF SUCH ASSESSMENT SHALL NOT EXCEED ONE-TENTH OF ONE PERCENT PER HUNDRED-WEIGHT OF THE AVERAGE STATISTICAL UNIFORM PRICE FOR THE NORTHEAST FEDERAL MILK MARKETING ORDER, OR ANY SUCCESSOR THERETO, AT ONONDAGA COUNTY FOR THE PRECEDING YEAR. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION, THE COMMISSIONER, UPON WRITTEN PETITION OF NO LESS THAN TWENTY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS OR THROUGH COOPERATIVE REPRESENTATION, MAY CALL A HEARING FOR THE SOLE PURPOSE OF CONSIDERING ESTABLISHING A NEW RATE OF ASSESSMENT HEREUNDER AND MAY SUBMIT A PROPOSED CHANGE IN THE RATE OF ASSESSMENT TO THE PRODUCERS FOR ACCEPTANCE OR REJECTION WITHOUT OTHERWISE AFFECTING THE ORDER. THE PRODUCERS IN THE AREA MAY VOTE ON THE PROPOSED RATE EITHER AS INDIVIDUALS OR THOROUGH COOPERATIVE REPRESENTATION.

(B) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN RESEARCH LEADING TO THE DEVELOPMENT OF NEW, INNOVATIVE OR IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABILITY.

(C) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED IN EDUCATIONAL ACTIVITIES TO PROMOTE THE USE OF NEW, INNOVATIVE OR IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABILITY.

(D) PROVISIONS FOR REQUIRING RECORDS TO BE KEPT AND REPORTS TO BE FILED BY MILK DEALERS WITH RESPECT TO MILK RECEIVED FROM PRODUCERS AND WITH RESPECT TO ASSESSMENTS ON THE MILK OF SUCH PRODUCERS.

1 (E) PROVISIONS FOR THE AUDITING OF THE RECORDS OF SUCH MILK DEALERS
2 FOR THE PURPOSE OF VERIFYING PAYMENT OF PRODUCER ASSESSMENTS.

3 (F) PROVISIONS FOR AN ADVISORY BOARD AS HEREINAFTER INDICATED.

4 (G) SUCH OTHER PROVISIONS AS MAY BE NECESSARY TO EFFECTUATE THE
5 DECLARED POLICES OF THIS ARTICLE.

6 7. THE COMMISSIONER MAY TEMPORARILY SUSPEND THE OPERATION OF AN EFFEC-
7 TIVE DAIRY RESEARCH AND EDUCATION ORDER FOR A CONTINUING PERIOD OF NOT
8 LONGER THAN ONE YEAR, IF THE PURPOSES OF THIS ARTICLE ARE DEEMED UNNEC-
9 ESSARY DURING SUCH YEAR.

10 8. PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY DAIRY
11 RESEARCH AND EDUCATION ORDER, THE COMMISSIONER MAY REQUIRE THE PETITION-
12 ERS FOR SUCH ISSUANCE, AMENDMENT OR TERMINATION TO DEPOSIT WITH HIM OR
13 HER SUCH AMOUNT AS HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSES
14 OF PREPARING AND MAKING EFFECTIVE, AMENDING OR TERMINATING THE ORDER.
15 SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE COMMISSION-
16 ER IN THE SAME MANNER AS OTHER MONEYS RECEIVED BY THE COMMISSIONER UNDER
17 THIS ARTICLE AND, IN THE EVENT THE APPLICATION FOR ADOPTION, AMENDMENT
18 OR TERMINATION OF A RESEARCH AND EDUCATION ORDER IS APPROVED IN A REFER-
19 ENDUM, THE COMMISSIONER SHALL REIMBURSE ANY SUCH APPLICANT IN THE AMOUNT
20 OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED MONIES COLLECTED UNDER THE
21 RESEARCH ORDER AFFECTED BY SUCH REFERENDUM.

22 9. ANY MONEYS COLLECTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE
23 SHALL NOT BE DEEMED STATE FUNDS AND SHALL BE DEPOSITED IN A BANK OR
24 OTHER DEPOSITORY IN THIS STATE, APPROVED BY THE COMMISSIONER, AND SHALL
25 BE DISBURSED BY THE COMMISSIONER ONLY FOR THE NECESSARY EXPENSES
26 INCURRED BY THE COMMISSIONER WITH RESPECT TO THE ORDER, ALL IN ACCORD-
27 ANCE WITH THE RULES AND REGULATIONS OF THE COMMISSIONER. ALL SUCH
28 EXPENDITURES SHALL BE AUDITED BY THE STATE COMPTROLLER OR A CERTIFIED
29 PUBLIC ACCOUNTANT AT LEAST EVERY TWO YEARS AND WITHIN FORTY-FIVE DAYS
30 AFTER THE COMPLETION THEREOF THE STATE COMPTROLLER OR CERTIFIED PUBLIC
31 ACCOUNTANT SHALL GIVE A COPY THEREOF TO THE COMMISSIONER AND THE ADVI-
32 SORY BOARD. ANY MONEYS REMAINING IN SUCH FUND MAY, IN THE DISCRETION OF
33 THE COMMISSIONER, BE REFUNDED AT THE CLOSE OF ANY FISCAL YEAR UPON A
34 PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE
35 COLLECTED OR, WHENEVER THE COMMISSIONER FINDS THAT SUCH MONEYS MAY BE
36 NECESSARY TO DEFRAY THE COST OF OPERATING SUCH RESEARCH AND EDUCATION
37 ORDER IN A SUCCEEDING FISCAL YEAR, THE COMMISSIONER MAY CARRY OVER ALL
38 OR ANY PORTION OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING YEAR. UPON
39 THE TERMINATION BY THE COMMISSIONER OF ANY DAIRY RESEARCH AND EDUCATION
40 ORDER, ALL MONEYS REMAINING AND NOT REQUIRED BY THE COMMISSIONER TO
41 DEFRAY THE EXPENSES OF OPERATING SUCH DAIRY RESEARCH AND EDUCATION
42 ORDER, SHALL BE REFUNDED BY THE COMMISSIONER UPON A PRO-RATA BASIS TO
43 ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE COLLECTED; PROVIDED,
44 HOWEVER, THAT IF THE COMMISSIONER FINDS THAT THE AMOUNTS SO REFUNDABLE
45 ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF
46 SUCH REFUNDS, THE COMMISSIONER MAY USE SUCH MONEYS TO DEFRAY THE
47 EXPENSES INCURRED IN THE FORMULATION, ISSUANCE, ADMINISTRATION OR
48 ENFORCEMENT OF ANY SUBSEQUENT RESEARCH ORDER.

49 10. ADVISORY BOARD. (A) ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED
50 PURSUANT TO THIS ARTICLE SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVI-
51 SORY BOARD TO ADVISE AND ASSIST THE COMMISSIONER IN THE ADMINISTRATION
52 OF SUCH ORDER. THIS BOARD SHALL CONSIST OF NOT LESS THAN FIVE MEMBERS.
53 AT LEAST THREE MEMBERS SHALL REPRESENT DAIRY COOPERATIVES, ONE MEMBER
54 SHALL REPRESENT A GENERAL FARM ORGANIZATION, AND ONE MEMBER SHALL BE AN
55 AT-LARGE PRODUCER REPRESENTATIVE. MEMBERS SHALL SERVE THREE-YEAR TERMS
56 AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS SUBMITTED BY

PRODUCERS LOCATED IN THE AREA TO WHICH THE ORDER APPLIES. THE COMMISSIONER SHALL MAKE EVERY EFFORT TO ENSURE THAT THERE IS GEOGRAPHICAL REPRESENTATION FROM THE MAJOR DAIRY PRODUCING REGIONS OF THE STATE. NOMINATING PROCEDURES, QUALIFICATIONS, REPRESENTATION AND SIZE OF THE ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER.

(B) NO MEMBER OF AN ADVISORY BOARD SHALL RECEIVE A SALARY BUT SHALL BE ENTITLED TO ACTUAL AND REASONABLE EXPENSES INCURRED WHILE PERFORMING DUTIES AS AUTHORIZED IN THIS SECTION.

(C) THE DUTIES AND RESPONSIBILITIES OF THE ADVISORY BOARD SHALL BE PRESCRIBED BY THE COMMISSIONER IN THE DAIRY RESEARCH AND EDUCATION ORDER, AND MAY INCLUDE ALL OR ANY OF THE FOLLOWING DUTIES AND RESPONSIBILITIES:

(1) RECOMMENDING TO THE COMMISSIONER OF ADMINISTRATIVE RULES AND REGULATIONS RELATING TO THE ORDER.

(2) RECOMMENDING TO THE COMMISSIONER SUCH AMENDMENTS TO THE ORDER AS DEEMED ADVISABLE.

(3) PREPARING AND SUBMITTING TO THE COMMISSIONER AN ESTIMATED BUDGET REQUIRED FOR THE PROPER OPERATION OF THE ORDER.

(4) REVIEWING, EVALUATING AND RECOMMENDING TO THE COMMISSIONER RESEARCH AND EDUCATION ACTIVITIES FOR FUNDING THAT ARE DESIGNED TO IMPROVE MILK PRODUCTION AND FARM PROFITABILITY.

(5) RECOMMENDING TO THE COMMISSIONER METHODS FOR ASSESSING PRODUCERS AND METHODS FOR COLLECTING THE NECESSARY FUNDS.

(6) ASSISTING THE COMMISSIONER IN THE COLLECTION AND ASSEMBLY OF INFORMATION AND DATA NECESSARY FOR THE PROPER ADMINISTRATION OF THE ORDER.

(7) THE PERFORMANCE OF SUCH OTHER DUTIES IN CONNECTION WITH THE ORDER AS THE COMMISSIONER SHALL DESIGNATE.

S 258-V. RULES AND REGULATIONS; ENFORCEMENT. 1. THE COMMISSIONER MAY MAKE AND PROMULGATE SUCH RULES AND REGULATIONS AS MAY BE NECESSARY TO EFFECTUATE THE PROVISIONS AND INTENT OF THIS ARTICLE AND TO ENFORCE THE PROVISION OF ANY DAIRY RESEARCH AND EDUCATION ORDER, ALL OF WHICH SHALL HAVE THE FORCE AND EFFECT OF LAW.

2. THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS ARTICLE, OR ANY RULE OR REGULATION, OR RESEARCH AND EDUCATION ORDER, COMMITTED TO HIS OR HER ADMINISTRATION, AND IN ADDITION TO ANY OTHER REMEDY UNDER ARTICLE THREE OF THIS CHAPTER OR OTHERWISE, MAY APPLY FOR RELIEF BY INJUNCTION IF NECESSARY TO PROTECT THE PUBLIC INTEREST WITHOUT BEING COMPELLED TO ALLEGE OR PROVE THAT AN ADEQUATE REMEDY AT LAW DOES NOT EXIST. SUCH APPLICATION MAY BE MADE TO THE SUPREME COURT IN ANY DISTRICT OR COUNTY AS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES, OR TO THE SUPREME COURT IN THE THIRD JUDICIAL DISTRICT.

S 2. This act shall take effect immediately.

PART AA

Section 1. Paragraph (b) of subdivision 2 of section 2975 of the public authorities law, as amended by section 1 of part J of chapter 60 of the laws of 2011, is amended to read as follows:

(b) On or before November first, two thousand three and on or before November first of each year thereafter, the director of the budget shall determine the amount owed under this section by each public benefit corporation. The director of the budget may reduce, in whole or part, the amount of such assessment if the payment thereof would necessitate a state appropriation for the purpose, or would otherwise impose an

1 extraordinary hardship upon the affected public benefit corporation. The
2 aggregate amount assessed under this section in any given state fiscal
3 year may not exceed [sixty] SIXTY-TWO million dollars.
4 S 2. This act shall take effect immediately.

PART BB

6 Section 1. Paragraph (b) of subdivision 2 of section 1676 of the
7 public authorities law is amended by adding a new undesignated paragraph
8 to read as follows:

9 THE STATE OF NEW YORK AND ANY PUBLIC CORPORATION.

10 S 2. Subdivision 1 of section 1680 of the public authorities law is
11 amended by adding a new undesignated paragraph to read as follows:

12 THE STATE OF NEW YORK AND ANY PUBLIC CORPORATION.

13 S 3. Section 1680 of the public authorities law is amended by adding a
14 new subdivision 41 to read as follows:

15 41. THE DORMITORY AUTHORITY IS EMPOWERED AND AUTHORIZED TO ENTER INTO
16 A LEASE, SUBLEASE OR OTHER AGREEMENT WITH THE STATE OF NEW YORK OR A
17 PUBLIC CORPORATION THEREIN, PURSUANT TO WHICH ONE OR MORE FACILITIES ARE
18 TO BE FINANCED, DESIGNED, ACQUIRED, CONSTRUCTED, RECONSTRUCTED, REHABIL-
19 ITATED, IMPROVED OR OTHERWISE PROVIDED FOR THE STATE OR SUCH PUBLIC
20 CORPORATION, OR SUCH FACILITIES ARE TO BE FURNISHED OR EQUIPPED.

21 S 4. This act shall take effect immediately.

PART CC

23 Section 1. Section 579 of the banking law, as amended by chapter 629
24 of the laws of 2002, is amended to read as follows:

25 S 579. Doing business without license prohibited. Only a [type B]
26 not-for-profit corporation [as defined in section two hundred one of the
27 not-for-profit corporation law of this state,] or an entity incorporated
28 in another state and having a similar not-for-profit status, shall
29 engage in the business of budget planning as defined in subdivision one
30 of section four hundred fifty-five of the general business law [of this
31 state] except as authorized by this article and without first obtaining
32 a license from the superintendent.

33 S 2. Paragraph (d) of section 304 of the business corporation law is
34 amended to read as follows:

35 (d) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
36 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
37 AGENT OF A DOMESTIC CORPORATION OR FOREIGN CORPORATION SHALL BE DEEMED
38 TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THIS STATE, TO WHICH A
39 PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE CORPORATION AS
40 REQUIRED BY THIS ARTICLE. Any designated [post-office] POST OFFICE
41 address to which the secretary of state OR A PERSON shall mail a copy of
42 process served upon [him] THE SECRETARY OF STATE as agent of a domestic
43 corporation or a foreign corporation, shall continue until the filing of
44 a certificate under this chapter directing the mailing to a different
45 [post-office] POST OFFICE address.

46 S 2-a. Paragraphs (b), (c) and (d) of section 306 of the business
47 corporation law are REPEALED and six new paragraphs (b), (c), (d), (e),
48 (f) and (g) are added to read as follows:

49 (B) SERVICE OF SUCH PROCESS UPON THE SECRETARY OF STATE AS AGENT OF A
50 DOMESTIC OR AUTHORIZED FOREIGN CORPORATION, OR OTHER BUSINESS ENTITY
51 THAT HAS DESIGNATED THE SECRETARY OF STATE AS AGENT FOR SERVICE OF PROC-
52 ESS PURSUANT TO ARTICLE NINE OF THIS CHAPTER, SHALL BE MADE BY

PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE OR A DEPUTY, OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE SUCH SERVICE, AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE, WHICH FEE SHALL BE A TAXABLE DISBURSEMENT. SUCH SERVICE SHALL BE SUFFICIENT IF NOTICE OF SUCH SERVICE ON THE SECRETARY OF STATE AND A COPY OF THE PROCESS ARE:

(1) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH CORPORATION BY A PERSON AND IN THE MANNER AUTHORIZED TO SERVE PROCESS BY LAW OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

(2) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH CORPORATION BY CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED, AT THE POST OFFICE ADDRESS SPECIFIED FOR THE PURPOSE OF MAILING PROCESS, ON FILE IN THE DEPARTMENT OF STATE.

(C) (1) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH SERVICE, WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

(2) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE CORPORATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER THE RETURN RECEIPT SIGNED BY SUCH CORPORATION OR OTHER OFFICIAL PROOF OF DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE WITH A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER WITH NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE PROMPTLY SENT TO SUCH CORPORATION AT THE SAME ADDRESS BY ORDINARY MAIL AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH CORPORATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH KNOWLEDGE OF THE CONTENTS THEREOF.

(D) SERVICE MADE AS PROVIDED IN THIS SECTION SHALL HAVE THE SAME FORCE AS PERSONAL SERVICE MADE WITHIN THIS STATE.

(E) AN ADDITIONAL SERVICE OF THE SUMMONS MAY BE MADE PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (G) OF SECTION THIRTY-TWO HUNDRED FIFTEEN OF THE CIVIL PRACTICE LAW AND RULES.

(F) IF AN ACTION OR SPECIAL PROCEEDING IS INSTITUTED IN A COURT OF LIMITED JURISDICTION, SERVICE OF PROCESS MAY BE MADE IN THE MANNER PROVIDED IN THIS SECTION IF THE OFFICE OF THE DOMESTIC OR FOREIGN CORPORATION IS WITHIN THE TERRITORIAL JURISDICTION OF THE COURT.

(G) NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

S 3. Subparagraphs 2 and 3 of paragraph (a), paragraph (b) and clause (i) of subparagraph 2 of paragraph (e) of section 306-A of the business corporation law, as added by chapter 469 of the laws of 1997, are amended to read as follows:

(2) That the address of the party has been designated by the corporation as the post office address to which [the secretary of state] A

PERSON shall mail a copy of any process served on the secretary of state as agent for such corporation, SUCH ADDRESS and that such party wishes to resign.

(3) That sixty days prior to the filing of the certificate of resignation FOR RECEIPT OF PROCESS with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designating corporation, if other than the party filing the certificate of resignation[,] for receipt of process, or if the [resigning] DESIGNATING corporation has no registered agent, then to the last address of the designating corporation known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating corporation, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the corporation, specifying what efforts were made.

(b) Upon the failure of the designating corporation to file a certificate of amendment or change providing for the designation by the corporation of the new address after the filing of a certificate of resignation for receipt of process with the secretary of state, its authority to do business in this state shall be suspended unless the corporation has previously filed a BIENNIAL statement [of addresses and directors] under section four hundred eight of this chapter, the address of the principal executive office stated in the last filed BIENNIAL statement [of addresses and directors] shall constitute the new address for process of the corporation, and the corporation shall not be deemed suspended.

(i) delivered personally within or without this state to such corporation by a person and in THE manner authorized to serve process by law of the jurisdiction in which service is made, or

S 4. Subparagraph 7 of paragraph (a) of section 402 of the business corporation law is amended to read as follows:

(7) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address, within or without this state, to which [the secretary of state] A PERSON shall mail a copy of any process against it served upon [him] THE SECRETARY OF STATE.

S 5. Subparagraph (c) of paragraph 1 of section 408 of the business corporation law, as added by chapter 55 of the laws of 1992, is amended to read as follows:

(c) The post office address, within or without this state, to which [the secretary of state] A PERSON shall mail a copy of any process against it served upon [him or her] THE SECRETARY OF STATE. Such address shall supersede any previous address on file with the department of state for this purpose.

S 6. Subparagraph 4 of paragraph (b) of section 801 of the business corporation law is amended to read as follows:

(4) To specify or change the post office address to which [the secretary of state] A PERSON shall mail a copy of any process against the corporation served upon [him] THE SECRETARY OF STATE.

S 7. Subparagraph 2 of paragraph (b) of section 803 of the business corporation law, as amended by chapter 803 of the laws of 1965, is amended to read as follows:

(2) To specify or change the post office address to which [the secretary of state] A PERSON shall mail a copy of any process against the corporation served upon [him] THE SECRETARY OF STATE.

1 S 8. Paragraph (b) of section 805-A of the business corporation law,
2 as added by chapter 725 of the laws of 1964, is amended to read as
3 follows:

4 (b) A certificate of change which changes only the post office address
5 to which [the secretary of state] A PERSON shall mail a copy of any
6 process against a corporation served upon [him] THE SECRETARY OF STATE
7 or the address of the registered agent, provided such address being
8 changed is the address of a person, partnership, LIMITED LIABILITY
9 COMPANY or other corporation whose address, as agent, is the address to
10 be changed or who has been designated as registered agent for such
11 corporation, may be signed[, verified] and delivered to the department
12 of state by such agent. The certificate of change shall set forth the
13 statements required under subparagraphs [(a)] (1), (2) and (3) OF PARA-
14 GRAPH (A) of this section; that a notice of the proposed change was
15 mailed to the corporation by the party signing the certificate not less
16 than thirty days prior to the date of delivery to the department and
17 that such corporation has not objected thereto; and that the party sign-
18 ing the certificate is the agent of such corporation to whose address
19 [the secretary of state] A PERSON is required to mail [copies] A COPY of
20 process SERVED ON THE SECRETARY OF STATE or the registered agent, if
21 such be the case. A certificate signed[, verified] and delivered under
22 this paragraph shall not be deemed to effect a change of location of the
23 office of the corporation in whose behalf such certificate is filed.

24 S 9. Subparagraph 8 of paragraph (a) of section 904-a of the business
25 corporation law, as amended by chapter 177 of the laws of 2008, is
26 amended to read as follows:

27 (8) If the surviving or resulting entity is a foreign corporation or
28 other business entity, a designation of the secretary of state as its
29 agent upon whom process against it may be served in the manner set forth
30 in paragraph (b) of section three hundred six of this chapter, in any
31 action or special proceeding, and a post office address, within or with-
32 out this state, to which [the secretary of state] A PERSON shall mail a
33 copy of any process against it served upon [him] THE SECRETARY OF STATE.
34 Such post office address shall supersede any prior address designated as
35 the address to which process shall be mailed;

36 S 10. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
37 the business corporation law, as amended by chapter 494 of the laws of
38 1997, is amended to read as follows:

39 (G) A designation of the secretary of state as its agent upon whom
40 process against it may be served in the manner set forth in paragraph
41 (b) of section 306 (Service of process), in any action or special
42 proceeding, and a post office address, within or without this state, to
43 which [the secretary of state] A PERSON shall mail a copy of any process
44 against it served upon [him] THE SECRETARY OF STATE. Such post office
45 address shall supersede any prior address designated as the address to
46 which process shall be mailed.

47 S 11. Subparagraph 6 of paragraph (a) of section 1304 of the business
48 corporation law, as amended by chapter 684 of the laws of 1963 and as
49 renumbered by chapter 590 of the laws of 1982, is amended to read as
50 follows:

51 (6) A designation of the secretary of state as its agent upon whom
52 process against it may be served and the post office address, within or
53 without this state, to which [the secretary of state] A PERSON shall
54 mail a copy of any process against it served upon [him] THE SECRETARY OF
55 STATE.

1 S 12. Subparagraph 7 of paragraph (a) of section 1308 of the business
2 corporation law, as amended by chapter 725 of the laws of 1964 and as
3 renumbered by chapter 186 of the laws of 1983, is amended to read as
4 follows:

5 (7) To specify or change the post office address to which [the secre-
6 tary of state] A PERSON shall mail a copy of any process against it
7 served upon [him] THE SECRETARY OF STATE.

8 S 13. Subparagraph 2 of paragraph (a) and paragraph (c) of section
9 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
10 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
11 by chapter 172 of the laws of 1999, are amended to read as follows:

12 (2) To specify or change the post office address to which [the secre-
13 tary of state] A PERSON shall mail a copy of any process against it
14 served upon [him] THE SECRETARY OF STATE.

15 (c) A certificate of change of application for authority which changes
16 only the post office address to which [the secretary of state] A PERSON
17 shall mail a copy of any process against an authorized foreign corpo-
18 ration served upon [him] THE SECRETARY OF STATE or which changes the
19 address of its registered agent, provided such address is the address of
20 a person, partnership, LIMITED LIABILITY COMPANY or other corporation
21 whose address, as agent, is the address to be changed or who has been
22 designated as registered agent for such authorized foreign corporation,
23 may be signed and delivered to the department of state by such agent.
24 The certificate of change of application for authority shall set forth
25 the statements required under subparagraphs (1), (2), (3) and (4) of
26 paragraph (b) of this section; that a notice of the proposed change was
27 mailed by the party signing the certificate to the authorized foreign
28 corporation not less than thirty days prior to the date of delivery to
29 the department and that such corporation has not objected thereto; and
30 that the party signing the certificate is the agent of such foreign
31 corporation to whose address [the secretary of state] A PERSON is
32 required to mail [copies] A COPY of process SERVED ON THE SECRETARY OF
33 STATE or the registered agent, if such be the case. A certificate signed
34 and delivered under this paragraph shall not be deemed to effect a
35 change of location of the office of the corporation in whose behalf such
36 certificate is filed.

37 S 14. Subparagraphs 1 and 6 of paragraph (a) of section 1310 of the
38 business corporation law, subparagraph 1 as amended by chapter 590 of
39 the laws of 1982, are amended to read as follows:

40 (1) The name of the foreign corporation as it appears on the index of
41 names of existing domestic and authorized foreign corporations of any
42 type or kind in the department of state, division of corporations [or,]
43 AND the fictitious name, IF ANY, the corporation has agreed to use in
44 this state pursuant to paragraph (d) of section 1301 (AUTHORIZATION OF
45 FOREIGN CORPORATIONS) of this [chapter] ARTICLE.

46 (6) A post office address, within or without this state, to which [the
47 secretary of state] A PERSON shall mail a copy of any process against it
48 served upon [him] THE SECRETARY OF STATE.

49 S 15. Subparagraph 4 of paragraph (d) of section 1310 of the business
50 corporation law is amended to read as follows:

51 (4) The changed post office address, within or without this state, to
52 which [the secretary of state] A PERSON shall mail a copy of any process
53 against it served upon [him] THE SECRETARY OF STATE.

54 S 16. Section 1311 of the business corporation law, as amended by
55 chapter 375 of the laws of 1998, is amended to read as follows:

56 S 1311. Termination of existence.

1 When an authorized foreign corporation is dissolved or its authority
2 or existence is otherwise terminated or cancelled in the jurisdiction of
3 its incorporation or when such foreign corporation is merged into or
4 consolidated with another foreign corporation, a certificate of the
5 secretary of state, or official performing the equivalent function as to
6 corporate records, of the jurisdiction of incorporation of such foreign
7 corporation attesting to the occurrence of any such event or a certified
8 copy of an order or decree of a court of such jurisdiction directing the
9 dissolution of such foreign corporation, the termination of its exist-
10 ence or the cancellation of its authority shall be delivered to the
11 department of state. The filing of the certificate, order or decree
12 shall have the same effect as the filing of a certificate of surrender
13 of authority under section 1310 (Surrender of authority). The secretary
14 of state shall continue as agent of the foreign corporation upon whom
15 process against it may be served in the manner set forth in paragraph
16 (b) of section 306 (Service of process), in any action or special
17 proceeding based upon any liability or obligation incurred by the
18 foreign corporation within this state prior to the filing of such
19 certificate, order or decree and [he] THE PERSON SERVING SUCH PROCESS
20 shall promptly cause a copy of any such process to be mailed by [regis-
21 tered] CERTIFIED mail, return receipt requested, to such foreign corpo-
22 ration at the post office address on file in [his] THE office OF THE
23 SECRETARY OF STATE specified for such purpose. The post office address
24 may be changed by signing and delivering to the department of state a
25 certificate of change setting forth the statements required under
26 section 1309-A (Certificate of change; contents) to effect a change in
27 the post office address under subparagraph [(a) (4)] (7) OF PARAGRAPH
28 (A) of section 1308 (Amendments or changes).

29 S 17. The opening paragraph of subdivision 1 of section 5 of the
30 cooperative corporations law, as amended by chapter 158 of the laws of
31 1978, is amended to read as follows:

32 The business corporation law applies to every corporation heretofore
33 or hereafter formed under this chapter, or under any other statute or
34 special act of this state, or under laws other than the statutes of this
35 state, which has as its purpose or among its purposes the cooperative
36 rendering of mutual help and service to its members and which, if formed
37 under laws other than the statutes of this state, would, if it were to
38 be formed currently under the laws of this state, be formed under this
39 chapter except a membership cooperative as defined in section three of
40 this chapter, to which the not-for-profit corporation law shall apply.
41 Any corporation to which the business corporation law is made applicable
42 by this section shall be treated as a "corporation," "domestic corpo-
43 ration," or "foreign corporation," as such terms are used in the busi-
44 ness corporation law; provided, however, that neither the purposes for
45 which any such corporation may be formed under this chapter nor its
46 classification as a non-profit corporation shall thereby be extended or
47 affected. [Any corporation to which the not-for-profit corporation law
48 is made applicable by this section shall be a type D not-for-profit
49 corporation.]

50 S 18. Section 11 of the cooperative corporations law, subdivision 8 as
51 amended by chapter 664 of the laws of 1966 and subdivisions 10 and 11 as
52 added by chapter 97 of the laws of 1969, is amended to read as follows:

53 S 11. CERTIFICATE OF INCORPORATION; CONTENTS. Five or more persons may
54 form a corporation, under this chapter, by making[, acknowledging] and
55 filing a certificate of incorporation ENTITLED "CERTIFICATE OF INCORPO-

1 RATION OF (NAME OF CORPORATION) UNDER SECTION 11 OF THE COOPER-
2 ATIVE CORPORATIONS LAW" which shall state:
3 1. Its name. The name shall include the word "Cooperative."
4 2. Its purposes, as permitted by this chapter.
5 3. Its duration.
6 4. The city, village or town and the county in which its office is to
7 be located.
8 5. The names and post office addresses of its incorporators.
9 6. The number of its directors, or that the number of directors shall
10 be within a stated minimum and maximum as the by-laws may from time to
11 time provide. In either case, the number shall be not less than five.
12 7. The names and post office addresses of the directors until the
13 first annual meeting.
14 8. Whether organized with or without capital stock. If organized with
15 stock, the total amount thereof, the total number, if any, of the shares
16 without par value, and the total number and par value of any shares
17 having a par value. If the shares are to be classified, the number of
18 shares to be included in each class and all of the designations, prefer-
19 ences, privileges, and voting rights or restrictions and qualifications
20 of the shares of each class.
21 9. That all of the subscribers are of full age; that at least two-
22 thirds of them are citizens of the United States; that at least one of
23 them is a resident of the state of New York; and that of the persons
24 named as directors at least one is a citizen of the United States and a
25 resident of the state of New York.
26 10. A designation of the secretary of state as agent of the corpo-
27 ration upon whom process against it may be served and the post office
28 address, within or without this state, to which [the secretary of state]
29 A PERSON shall mail a copy of any process against it served upon [him]
30 THE SECRETARY OF STATE.
31 11. If the corporation is to have a registered agent, [his] SUCH
32 AGENT'S name and address within this state and a statement that the
33 registered agent is to be the agent of the corporation upon whom process
34 against it may be served.
35 S 19. The opening paragraph of subdivision 2 and subdivision 3 of
36 section 18 of the general associations law, as amended by chapter 13 of
37 the laws of 1938, are amended to read as follows:
38 Every association doing business within this state shall file in the
39 department of state a certificate in its associate name, signed [and
40 acknowledged] by its president, or a vice-president, or secretary, or
41 treasurer, or managing director, or trustee, designating the secretary
42 of state as an agent upon whom process in any action or proceeding
43 against the association may be served within this state, and setting
44 forth an address to which [the secretary of state] A PERSON shall mail a
45 copy of any process against the association which may be served upon
46 [him] THE SECRETARY OF STATE pursuant to law. Annexed to the certif-
47 icate of designation shall be a statement, executed in the same manner
48 as the certificate is required to be executed under this section, which
49 shall set forth:
50 3. Any association, from time to time, may change the address to
51 which [the secretary of state] A PERSON is directed to mail [copies] A
52 COPY of process SERVED ON THE SECRETARY OF STATE, by filing a statement
53 to that effect, executed[,] AND signed [and acknowledged] in like manner
54 as a certificate of designation as herein provided.
55 S 20. Section 18 of the general associations law is amended by adding
56 two new subdivisions 5 and 6 to read as follows:

1 5. ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
2 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
3 AGENT IN ANY ACTION OR PROCEEDING AGAINST THE ASSOCIATION SHALL BE
4 DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THIS STATE, TO
5 WHICH A PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE ASSOCI-
6 ATION AS REQUIRED BY THIS ARTICLE. ANY DESIGNATED POST OFFICE ADDRESS TO
7 WHICH THE SECRETARY OF STATE OR A PERSON SHALL MAIL A COPY OF ANY PROC-
8 ESS SERVED UPON THE SECRETARY OF STATE AS AGENT IN ANY ACTION OR
9 PROCEEDING AGAINST THE ASSOCIATION SHALL CONTINUE UNTIL THE FILING OF A
10 CERTIFICATE UNDER THIS CHAPTER DIRECTING THE MAILING TO A DIFFERENT POST
11 OFFICE ADDRESS.

12 6. "PROCESS" MEANS JUDICIAL PROCESS AND ALL ORDERS, DEMANDS, NOTICES
13 OR OTHER PAPERS REQUIRED OR PERMITTED BY LAW TO BE PERSONALLY SERVED ON
14 AN ASSOCIATION, FOR THE PURPOSE OF ACQUIRING JURISDICTION OF SUCH ASSO-
15 CIATION IN ANY ACTION OR PROCEEDING, CIVIL OR CRIMINAL, WHETHER JUDI-
16 CIAL, ADMINISTRATIVE, ARBITRATIVE OR OTHERWISE, IN THIS STATE OR IN THE
17 FEDERAL COURTS SITTING IN OR FOR THIS STATE.

18 S 21. Section 19 of the general associations law, as amended by chap-
19 ter 166 of the laws of 1991, is amended to read as follows:

20 S 19. Service of process. 1. Service of process against an association
21 upon the secretary of state shall be made by personally delivering to
22 and leaving with [him] THE SECRETARY OF STATE or a deputy [secretary of
23 state or an associate attorney, senior attorney or attorney in the
24 corporation division of the department of state, duplicate copies of
25 such process at the office of the department of state in the city of
26 Albany], OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO
27 RECEIVE SUCH SERVICE AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE
28 CITY OF ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE
29 OF FORTY DOLLARS, WHICH FEE SHALL BE A TAXABLE DISBURSEMENT. [At the
30 time of such service the plaintiff shall pay a fee of forty dollars to
31 the secretary of state which shall be a taxable disbursement. If the
32 cost of registered mail for transmitting a copy of the process shall
33 exceed two dollars, an additional fee equal to such excess shall be paid
34 at the time of the service of such process. The secretary of state shall
35 forthwith send by registered mail one of such copies to the association
36 at the address fixed for that purpose, as herein provided.]

37 2. SUCH SERVICE SHALL BE SUFFICIENT IF NOTICE OF SUCH SERVICE ON THE
38 SECRETARY OF STATE AND A COPY OF THE PROCESS ARE:

39 (A) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH ASSOCI-
40 ATION BY A PERSON AND IN THE MANNER AUTHORIZED TO SERVE PROCESS BY LAW
41 OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

42 (B) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH ASSOCIATION BY
43 CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED, AT THE POST OFFICE ADDRESS
44 SPECIFIED FOR THE PURPOSE OF MAILING PROCESS, ON FILE IN THE DEPARTMENT
45 OF STATE.

46 3. (A) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL
47 SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS
48 SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH
49 SERVICE, WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL
50 PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
51 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

52 (B) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
53 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
54 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
55 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE ASSOCI-
56 ATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE

1 MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS
2 SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER
3 THE RETURN RECEIPT SIGNED BY SUCH ASSOCIATION OR OTHER OFFICIAL PROOF OF
4 DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE WITH
5 A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF
6 ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER WITH
7 NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE
8 PROMPTLY SENT TO SUCH ASSOCIATION AT THE SAME ADDRESS BY ORDINARY MAIL
9 AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL
10 BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE
11 COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN
12 THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH
13 ASSOCIATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
14 KNOWLEDGE OF THE CONTENTS THEREOF.

15 4. If the action or proceeding is instituted in a court of limited
16 jurisdiction, service of process may be made in the manner provided in
17 this section if the cause of action arose within the territorial juris-
18 diction of the court and the office of the defendant, as set forth in
19 its statement filed pursuant to section eighteen of this [chapter] ARTI-
20 CLE, is within such territorial jurisdiction.

21 S 22. Paragraph 4 of subdivision (e) of section 203 of the limited
22 liability company law, as added by chapter 470 of the laws of 1997, is
23 amended to read as follows:

24 (4) a designation of the secretary of state as agent of the limited
25 liability company upon whom process against it may be served and the
26 post office address, within or without this state, to which [the secre-
27 tary of state] A PERSON shall mail a copy of any process against the
28 limited liability company served upon [him or her] THE SECRETARY OF
29 STATE;

30 S 23. Paragraph 6 of subdivision (d) of section 211 of the limited
31 liability company law is amended to read as follows:

32 (6) a change in the post office address to which [the secretary of
33 state] A PERSON shall mail a copy of any process against the limited
34 liability company served upon [him or her] THE SECRETARY OF STATE if
35 such change is made other than pursuant to section three hundred one of
36 this chapter;

37 S 24. Subdivisions (a) and (b) of section 211-A of the limited liabil-
38 ity company law, as added by chapter 448 of the laws of 1998, are
39 amended to read as follows:

40 (a) A limited liability company may amend its articles of organization
41 from time to time to (i) specify or change the location of the limited
42 liability company's office; (ii) specify or change the post office
43 address to which [the secretary of state] A PERSON shall mail a copy of
44 any process against the limited liability company served upon [him] THE
45 SECRETARY OF STATE; and (iii) make, revoke or change the designation of
46 a registered agent, or specify or change the address of the registered
47 agent. Any one or more such changes may be accomplished by filing a
48 certificate of change which shall be entitled "Certificate of Change
49 of (name of limited liability company) under section 211-A of
50 the Limited Liability Company Law" and shall be signed and delivered to
51 the department of state. It shall set forth:

52 (1) the name of the limited liability company, and if it has been
53 changed, the name under which it was formed;

54 (2) the date the articles of organization were filed by the department
55 of state; and

56 (3) each change effected thereby.

1 (b) A certificate of change which changes only the post office address
2 to which [the secretary of state] A PERSON shall mail a copy of any
3 process against a limited liability company served upon [him] THE SECRE-
4 TARY OF STATE or the address of the registered agent, provided such
5 address being changed is the address of a person, partnership, LIMITED
6 LIABILITY COMPANY or corporation whose address, as agent, is the address
7 to be changed or who has been designated as registered agent for such
8 limited liability company may be signed and delivered to the department
9 of state by such agent. The certificate of change shall set forth the
10 statements required under subdivision (a) of this section; that a notice
11 of the proposed change was mailed to the domestic limited liability
12 company by the party signing the certificate not less than thirty days
13 prior to the date of delivery to the department of state and that such
14 domestic limited liability company has not objected thereto; and that
15 the party signing the certificate is the agent of such limited liability
16 company to whose address [the secretary of state] A PERSON is required
17 to mail [copies] A COPY of process SERVED ON THE SECRETARY OF STATE or
18 the registered agent, if such be the case. A certificate signed and
19 delivered under this subdivision shall not be deemed to effect a change
20 of location of the office of the limited liability company in whose
21 behalf such certificate is filed.

22 S 24-a. Paragraph 2 of subdivision (b) of section 213 of the limited
23 liability company law is amended to read as follows:

24 (2) to change the post office address to which [the secretary of
25 state] A PERSON shall mail a copy of any process against the limited
26 liability company served upon [him or her] THE SECRETARY OF STATE; and

27 S 25. Subdivisions (c) and (e) of section 301 of the limited liability
28 company law, subdivision (e) as amended by chapter 643 of the laws of
29 1995, are amended to read as follows:

30 (c) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
31 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
32 AGENT OF A DOMESTIC LIMITED LIABILITY COMPANY OR FOREIGN LIMITED LIABIL-
33 ITY COMPANY SHALL BE DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR
34 WITHOUT THIS STATE, TO WHICH A PERSON SHALL MAIL A COPY OF PROCESS
35 SERVED AGAINST THE LIMITED LIABILITY COMPANY AS REQUIRED BY THIS ARTI-
36 CLE. Any designated post office address to which the secretary of state
37 OR A PERSON shall mail a copy of process served upon [him or her] THE
38 SECRETARY OF STATE as agent of a domestic limited liability company or a
39 foreign limited liability company shall continue until the filing of a
40 certificate under this chapter directing the mailing to a different post
41 office address.

42 [(e)] (D) Every limited liability company to which this chapter
43 applies, shall biennially in the calendar month during which its arti-
44 cles of organization or application for authority were filed, or effec-
45 tive date thereof if stated, file on forms prescribed by the secretary
46 of state, a statement setting forth the post office address, within or
47 without this state, to which [the secretary of state] A PERSON shall
48 mail a copy of any process accepted against it served upon [him or her]
49 THE SECRETARY OF STATE. Such address shall supersede any previous
50 address on file with the department of state for this purpose.

51 S 26. Paragraphs 2 and 3 of subdivision (a), subdivision (c), subpara-
52 graph (ii) of paragraph 2 and subparagraph (ii) of paragraph 3 of subdi-
53 vision (e) of section 301-A of the limited liability company law, as
54 added by chapter 448 of the laws of 1998, are amended to read as
55 follows:

1 (2) that the address of the party has been designated by the limited
2 liability company as the post office address to which [the secretary of
3 state] A PERSON shall mail a copy of any process served on the secretary
4 of state as agent for such limited liability company, SUCH ADDRESS and
5 that such party wishes to resign.

6 (3) that sixty days prior to the filing of the certificate of resigna-
7 tion FOR RECEIPT OF PROCESS with the department of state the party has
8 sent a copy of the certificate of resignation for receipt of process by
9 registered or certified mail to the address of the registered agent of
10 the [designated] DESIGNATING limited liability company, if other than
11 the party filing the certificate of resignation[,] for receipt of proc-
12 ess, or if the [resigning] DESIGNATING limited liability company has no
13 registered agent, then to the last address of the [designated] DESIGNAT-
14 ING limited liability company known to the party, specifying the address
15 to which the copy was sent. If there is no registered agent and no known
16 address of the designating limited liability company, the party shall
17 attach an affidavit to the certificate stating that a diligent but
18 unsuccessful search was made by the party to locate the limited liabil-
19 ity company, specifying what efforts were made.

20 (c) The filing by the department of state of a certificate of amend-
21 ment [or], certificate of change OR BIENNIAL STATEMENT providing for a
22 new address by a designating limited liability company shall annul the
23 suspension and its authority to do business in this state shall be
24 restored and continued as if no suspension had occurred.

25 (ii) sent by or on behalf of the plaintiff to such limited LIABILITY
26 company by registered or certified mail with return receipt requested to
27 the last address of such limited liability company known to the plain-
28 tiff.

29 (ii) Where service of a copy of process was effected by mailing in
30 accordance with this section, proof of service shall be by affidavit of
31 compliance with this section filed, together with the process, within
32 thirty days after receipt of the return receipt signed by the limited
33 liability company or other official proof of delivery or of the original
34 envelope mailed. If a copy of the process is mailed in accordance with
35 this section, there shall be filed with the affidavit of compliance
36 either the return receipt signed by such limited LIABILITY company or
37 other official proof of delivery, if acceptance was refused by it, the
38 original envelope with a notation by the postal authorities that accept-
39 ance was refused. If acceptance was refused a copy of the notice and
40 process together with notice of the mailing by registered or certified
41 mail and refusal to accept shall be promptly sent to such limited
42 liability company at the same address by ordinary mail and the affidavit
43 of compliance shall so state. Service of process shall be complete ten
44 days after such papers are filed with the clerk of the court. The
45 refusal to accept delivery of the registered or certified mail or to
46 sign the return receipt shall not affect the validity of the service and
47 such limited liability company refusing to accept such registered or
48 certified mail shall be charged with knowledge of the contents thereof.

49 S 27. Section 303 of the limited liability company law, subdivisions
50 (a) and (b) as relettered by chapter 341 of the laws of 1999, is amended
51 to read as follows:

52 S 303. Service of process on limited liability companies. (a) Service
53 of process on the secretary of state as agent of a domestic limited
54 liability company [or], authorized foreign limited liability company, OR
55 OTHER BUSINESS ENTITY THAT HAS DESIGNATED THE SECRETARY OF STATE AS
56 AGENT FOR SERVICE OF PROCESS PURSUANT TO ARTICLE TEN OF THIS CHAPTER

1 shall be made by personally delivering to and leaving with the secretary
2 of state or [his or her] A deputy, or with any person authorized by the
3 secretary of state to receive such service, at the office of the depart-
4 ment of state in the city of Albany, [duplicate copies] A COPY of such
5 process together with the statutory fee, which fee shall be a taxable
6 disbursement. [Service of process on such limited liability company
7 shall be complete when the secretary of state is so served. The secre-
8 tary of state shall promptly send one of such copies by certified mail,
9 return receipt requested, to such limited liability company at the post
10 office address on file in the department of state specified for that
11 purpose.]

12 (b) SUCH SERVICE SHALL BE SUFFICIENT IF NOTICE OF SUCH SERVICE ON THE
13 SECRETARY OF STATE AND A COPY OF THE PROCESS ARE:

14 (1) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH LIMITED
15 LIABILITY COMPANY BY A PERSON AND IN THE MANNER AUTHORIZED TO SERVE
16 PROCESS BY LAW OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

17 (2) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH LIMITED LIABILITY
18 COMPANY BY CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED AT THE POST
19 OFFICE ADDRESS SPECIFIED FOR THE PURPOSE OF MAILING PROCESS ON FILE IN
20 THE DEPARTMENT OF STATE.

21 (C) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL
22 SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS
23 SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH
24 SERVICE WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL
25 PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
26 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

27 (D) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
28 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
29 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
30 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE LIMITED
31 LIABILITY COMPANY, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE
32 ORIGINAL ENVELOPE MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORD-
33 ANCE WITH THIS SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF
34 COMPLIANCE EITHER THE RETURN RECEIPT SIGNED BY SUCH LIMITED LIABILITY
35 COMPANY OR OTHER PROOF OF DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT,
36 THE ORIGINAL ENVELOPE WITH A NOTATION BY THE POSTAL AUTHORITIES THAT
37 ACCEPTANCE WAS REFUSED. IF ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE
38 AND PROCESS TOGETHER WITH NOTICE OF THE MAILING BY CERTIFIED MAIL AND
39 REFUSAL TO ACCEPT SHALL BE PROMPTLY SENT TO SUCH LIMITED LIABILITY
40 COMPANY AT THE SAME ADDRESS BY ORDINARY MAIL AND THE AFFIDAVIT OF
41 COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
42 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT. THE REFUSAL TO
43 ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN THE RETURN RECEIPT
44 SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH LIMITED LIABILITY
45 COMPANY REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
46 KNOWLEDGE OF THE CONTENTS THEREOF. Nothing in this section shall limit
47 or affect the right to serve any process required or permitted by law to
48 be served upon a limited liability company in any other manner now or
49 hereafter permitted by law or applicable rules of procedure.

50 S 28. Paragraphs 1 and 4 of subdivision (a) of section 802 of the
51 limited liability company law, paragraph 1 as amended by chapter 643 of
52 the laws of 1995 and paragraph 4 as amended by chapter 470 of the laws
53 of 1997, are amended to read as follows:

54 (1) the name of the foreign limited liability company and, if a
55 foreign LIMITED liability company's name is not acceptable for authori-
56 zation pursuant to section two hundred four of this chapter, the ficti-

1 tious name under which it proposes to apply for authority and do busi-
2 ness in this state, which name shall be in compliance with section two
3 hundred four of this chapter and shall be used by the foreign limited
4 liability company in all its dealings with the department of state and
5 in the conduct of its business in this state. The provisions of section
6 one hundred thirty of the general business law shall not apply to any
7 fictitious name filed by a foreign limited liability company pursuant to
8 this section, and a filing under section one hundred thirty of the
9 general business law shall not constitute the adoption of a fictitious
10 name;

11 (4) a designation of the secretary of state as its agent upon whom
12 process against it may be served and the post office address, within or
13 without this state, to which [the secretary of state] A PERSON shall
14 mail a copy of any process against it served upon [him or her] THE
15 SECRETARY OF STATE;

16 S 29. Section 804-A of the limited liability company law, as added by
17 chapter 448 of the laws of 1998, is amended to read as follows:

18 S 804-A. Certificate of change. (a) A foreign limited liability compa-
19 ny may amend its application for authority from time to time to (i)
20 specify or change the location of the limited liability company's
21 office; (ii) specify or change the post office address to which [the
22 secretary of state] A PERSON shall mail a copy of any process against
23 the limited liability company served upon [him] THE SECRETARY OF STATE;
24 and (iii) to make, revoke or change the designation of a registered
25 agent, or to specify or change the address of a registered agent. Any
26 one or more such changes may be accomplished by filing a certificate of
27 change which shall be entitled "Certificate of Change of (name
28 of limited liability company) under section 804-A of the Limited Liabil-
29 ity Company Law" and shall be signed and delivered to the department of
30 state. It shall set forth:

31 (1) the name of the foreign limited liability company and, if applica-
32 ble, the fictitious name the limited liability company has agreed to use
33 in this state pursuant to section eight hundred two of this article OR
34 SECTION THIRTEEN HUNDRED SIX OF THIS CHAPTER;

35 (2) the date its application for authority was filed by the department
36 of state; and

37 (3) each change effected thereby[,].

38 (b) A certificate of change which changes only the post office address
39 to which [the secretary of state] A PERSON shall mail a copy of any
40 process against a foreign limited liability company served upon [him]
41 THE SECRETARY OF STATE or the address of the registered agent, provided
42 such address being changed is the address of a person, partnership [or],
43 corporation OR OTHER LIMITED LIABILITY COMPANY whose address, as agent,
44 is the address to be changed or who has been designated as registered
45 agent for such limited liability company may be signed and delivered to
46 the department of state by such agent. The certificate of change shall
47 set forth the statements required under subdivision (a) of this section;
48 that a notice of the proposed change was mailed to the foreign limited
49 liability company by the party signing the certificate not less than
50 thirty days prior to the date of delivery to the department of state and
51 that such foreign limited liability company has not objected thereto;
52 and that the party signing the certificate is the agent of such foreign
53 limited liability company to whose address [the secretary of state] A
54 PERSON is required to mail [copies] A COPY of process SERVED ON THE
55 SECRETARY OF STATE or the registered agent, if such be the case. A
56 certificate signed and delivered under this subdivision shall not be

1 deemed to effect a change of location of the office of the foreign
2 limited liability company in whose behalf such certificate is filed.

3 S 30. Paragraph 6 of subdivision (b) of section 806 of the limited
4 liability company law is amended to read as follows:

5 (6) a post office address within or without this state to which [the
6 secretary of state] A PERSON shall mail a copy of any process against it
7 served upon [him or her] THE SECRETARY OF STATE.

8 S 31. Paragraph 11 of subdivision (a) of section 1003 of the limited
9 liability company law, as amended by chapter 374 of the laws of 1998, is
10 amended to read as follows:

11 (11) a designation of the secretary of state as its agent upon whom
12 process against it may be served in the manner set forth in article
13 three of this chapter in any action or special proceeding, and a post
14 office address, within or without this state, to which [the secretary of
15 state] A PERSON shall mail a copy of any process served upon [him or
16 her] THE SECRETARY OF STATE. Such post office address shall supersede
17 any prior address designated as the address to which process shall be
18 mailed;

19 S 32. Subdivisions (b) and (c) of section 1101 of the limited liabil-
20 ity company law are amended to read as follows:

21 (b) For the change of address of the post office address to which [the
22 secretary of state] A PERSON shall mail a copy of any process against
23 the limited liability company served upon [him or her] THE SECRETARY OF
24 STATE pursuant to section three hundred one of this chapter, twenty
25 dollars.

26 (c) For the statement of address of the post office address to which
27 [the secretary of state] A PERSON shall mail a copy of any process
28 against the limited liability company served upon [him or her] THE
29 SECRETARY OF STATE pursuant to section three hundred one of this chap-
30 ter, nine dollars.

31 S 33. Paragraphs 1, 5 and 6 of subdivision (a) of section 1306 of the
32 limited liability company law are amended to read as follows:

33 (1) the name of the foreign professional service limited liability
34 company. A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE
35 LIMITED LIABILITY COMPANY NAME IS NOT ACCEPTABLE FOR AUTHORIZATION
36 PURSUANT TO SECTION TWO HUNDRED FOUR OF THIS CHAPTER, MAY SUBMIT IN ITS
37 APPLICATION FOR AUTHORITY A FICTITIOUS NAME UNDER WHICH IT SHALL DO
38 BUSINESS IN THIS STATE. A FICTITIOUS NAME SUBMITTED PURSUANT TO THIS
39 SECTION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED FOUR
40 OF THIS CHAPTER. A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPA-
41 NY AUTHORIZED TO DO BUSINESS IN THIS STATE UNDER A FICTITIOUS NAME
42 PURSUANT TO THIS SECTION SHALL USE SUCH FICTITIOUS NAME IN ALL OF ITS
43 DEALINGS WITH THE SECRETARY OF STATE AND IN THE CONDUCT OF ITS BUSINESS
44 IN THIS STATE. THE PROVISIONS OF SECTION ONE HUNDRED THIRTY OF THE
45 GENERAL BUSINESS LAW SHALL NOT APPLY TO ANY FICTITIOUS NAME FILED BY A
46 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY PURSUANT TO THIS
47 SECTION AND A FILING UNDER SECTION ONE HUNDRED THIRTY OF THE GENERAL
48 BUSINESS LAW SHALL NOT CONSTITUTE THE ADOPTION OF A FICTITIOUS NAME. If
49 the name does not end with the words "Professional Limited Liability
50 Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.",
51 "PLLC", "L.L.C." or "LLC", it shall in addition to the foregoing set
52 forth the name to be used in this state, ending with the words "Profes-
53 sional Limited Liability Company" or "Limited Liability Company" or the
54 abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC";

55 (5) the [city, incorporated village or town and the] county within
56 this state in which its office is to be located, OR IF IT SHALL MAINTAIN

1 MORE THAN ONE OFFICE IN THIS STATE, THE COUNTY WITHIN THE STATE IN WHICH
2 THE PRINCIPAL OFFICE OF THE FOREIGN PROFESSIONAL SERVICE LIMITED LIABIL-
3 ITY COMPANY IS TO BE LOCATED;

4 (6) a designation of the secretary of state as its agent upon whom
5 process against it may be served and the post office address within or
6 without this state to which [the secretary of state] A PERSON shall mail
7 a copy of any process against it served upon [him or her] THE SECRETARY
8 OF STATE; and

9 S 33-a. Paragraphs (a) and (c) of section 103 of the not-for-profit
10 corporation law, paragraph (a) as amended by chapter 807 of the laws of
11 1973 and paragraph (c) as amended by chapter 961 of the laws of 1972,
12 are amended to read as follows:

13 (a) Except as otherwise provided in this section, this chapter
14 applies to every domestic corporation as herein defined, and to every
15 foreign corporation as herein defined which is authorized to conduct or
16 which conducts any activities in this state. This chapter also applies
17 to any other domestic corporation or foreign corporation of any type or
18 kind to the extent, if any, provided under this chapter or any law
19 governing such corporation and, if no such provision for application is
20 made, to the extent, if any, that the membership corporations law
21 applied to such corporation as of the effective date of this chapter. A
22 corporation formed by a special act of this state which has as its prin-
23 cipal purpose an education purpose and which is a member of the univer-
24 sity of the state of New York, is an "education corporation" under
25 section two hundred sixteen-a of the education law.

26 To the extent that the membership corporations law or the general
27 corporation law applied to it as of the effective date of this chapter,
28 the corresponding provisions of this chapter apply to a corporation
29 heretofore formed by or pursuant to a special act of this state other
30 than a religious corporation or an "education corporation" under clause
31 (b) of subdivision one of section two hundred sixteen-a of the education
32 law, if (1) its principal purpose is a religious, charitable or educa-
33 tion purpose, and (2) it is operated, supervised or controlled by or in
34 connection with a religious organization. Any such corporation may
35 elect hereunder at any time after the effective date of this chapter to
36 file a RESTATED certificate of [type] INCORPORATION under section [one]
37 EIGHT hundred [thirteen (Certificate of type of not-for-profit corpo-
38 ration)] FIVE (RESTATED CERTIFICATE OF INCORPORATION). SUCH RESTATED
39 CERTIFICATE OF INCORPORATION SHALL INCLUDE:

40 (1) A STATEMENT THAT SUCH CORPORATION IS PERMITTED PURSUANT TO THIS
41 SECTION TO ELECT TO BECOME AND BE A NOT-FOR-PROFIT CORPORATION;

42 (2) A STATEMENT THAT SUCH CORPORATION HAS ELECTED TO BECOME AND BE A
43 NOT-FOR-PROFIT CORPORATION OPERATED UNDER THIS CHAPTER;

44 (3) THE CHAPTER AND YEAR OF THE SPECIAL ACT OF THE LEGISLATURE CREAT-
45 ING SUCH CORPORATION;

46 (4) THE CERTIFICATE OF INCORPORATION IN THE SAME MANNER AS IF NEWLY
47 INCORPORATED PURSUANT TO SECTION FOUR HUNDRED TWO (CERTIFICATE OF INCOR-
48 PORATION; CONTENTS), HOWEVER SUCH CERTIFICATE NEED NOT INCLUDE STATE-
49 MENTS AS TO THE INCORPORATOR OR INCORPORATORS, OR THE INITIAL DIRECTORS
50 OF SUCH CORPORATION.

51 Upon the filing of such certificate by the department of state, this
52 chapter shall apply in all respects to such corporation.

53 This chapter also applies to any other corporation of any type or
54 kind, formed not for profit under any other chapter of the laws of this
55 state except a chapter of the consolidated laws, to the extent that
56 provisions of this chapter do not conflict with the provisions of such

1 unconsolidated law. If an applicable provision of such unconsolidated
2 law relates to a matter embraced in this chapter but is not in conflict
3 therewith, both provisions shall apply. Any corporation to which this
4 chapter is made applicable by this paragraph shall be treated as a
5 "corporation" or "domestic corporation" as such terms are used in this
6 chapter, except that the purposes of any such corporation formed or
7 formable under such unconsolidated law shall not thereby be extended.
8 For the purpose of this paragraph, the effective date of this chapter as
9 to corporations to which this chapter is made applicable by this para-
10 graph shall be September one, nineteen hundred seventy-three.

11 (c) If any provision in articles one to thirteen inclusive of this
12 chapter conflicts with a provision of any subsequent articles or of any
13 special act under which a corporation to which this chapter applies is
14 formed, the provision in such subsequent article or special act
15 prevails. A provision of any such subsequent article or special act
16 relating to a matter referred to in articles one to thirteen inclusive
17 and not in conflict therewith is supplemental and both shall apply.
18 Whenever the board of a [Type B] corporation, formed under a special
19 act, reasonably makes an interpretation as to whether a provision of the
20 special act or this chapter prevails, or both apply, such interpretation
21 shall govern unless and until a court determines otherwise, if such
22 board has acted in good faith for a purpose which it reasonably believes
23 to be in the best interests of the corporation, provided however, that
24 such interpretation shall not bind any governmental body or officer.

25 S 34. Subparagraphs 7 and 8 of paragraph (a) of section 112 of the
26 not-for-profit corporation law, subparagraph 7 as amended by chapter
27 1058 of the laws of 1971, are amended to read as follows:

28 (7) To enforce any right given under this chapter to members, a
29 director or an officer of a [Type B or Type C] corporation. The attor-
30 ney-general shall have the same status as such members, director or
31 officer.

32 (8) To compel the directors and officers, or any of them, of a [Type
33 B or Type C] corporation which has been dissolved [under section 1011
34 (Dissolution for failure to file certificate of type of Not-for-Profit
35 Corporation Law under section 113)] to account for the assets of the
36 dissolved corporation.

37 S 35. Section 113 of the not-for-profit corporation law is REPEALED.

38 S 36. Section 114 of the not-for-profit corporation law, as added by
39 chapter 847 of the laws of 1970, is amended to read as follows:

40 S 114. Visitation of supreme court.

41 [Type B and Type C corporations] CORPORATIONS, whether formed under
42 general or special laws, with their books and vouchers, shall be subject
43 to the visitation and inspection of a justice of the supreme court, or
44 of any person appointed by the court for that purpose. If it appears by
45 the verified petition of a member or creditor of any such corporation,
46 that it, or its directors, officers or agents, have misappropriated any
47 of the funds or property of the corporation, or diverted them from the
48 purpose of its incorporation, or that the corporation has acquired prop-
49 erty in excess of the amount which it is authorized by law to hold, or
50 has engaged in any business other than that stated in its certificate of
51 incorporation, the court may order that notice of at least eight days,
52 with a copy of the petition, be served on the corporation and the
53 persons charged with misconduct, requiring them to show cause at a time
54 and place specified, why they should not be required to make and file an
55 inventory and account of the property, effects and liabilities of such
56 corporation with a detailed statement of its transactions during the

1 twelve months next preceding the granting of such order. On the hearing
2 of such application, the court may make an order requiring such invento-
3 ry, account and statement to be filed, and proceed to take and state an
4 account of the property and liabilities of the corporation, or may
5 appoint a referee for that purpose. When such account is taken and
6 stated, after hearing all the parties to the application, the court may
7 enter a final order determining the amount of property so held by the
8 corporation, its annual income, whether any of the property or funds of
9 the corporation have been misappropriated or diverted to any other
10 purpose than that for which such corporation was incorporated, and
11 whether such corporation has been engaged in any activity not covered by
12 its certificate of incorporation. An appeal may be taken from the order
13 by any party aggrieved to the appellate division of the supreme court,
14 and to the court of appeals, as in a civil action. No corporation shall
15 be required to make and file more than one inventory and account in any
16 one year, nor to make a second account and inventory, while proceedings
17 are pending for the statement of an account under this section.

18 S 37. Section 201 of the not-for-profit corporation law, paragraph (b)
19 as amended by chapter 847 of the laws of 1970 and paragraph (c) as
20 amended by chapter 1058 of the laws of 1971, is amended to read as
21 follows:

22 S 201. Purposes.

23 (a) A corporation, as defined in subparagraph (5)[,] OF paragraph (a)
24 of [S] SECTION 102 OF THIS CHAPTER (Definitions), may be formed under
25 this chapter as provided in paragraph (b) OF THIS SECTION unless it may
26 be formed under any other corporate law of this state in which event it
27 may not be formed under this chapter unless such other corporate law
28 expressly so provides.

29 (b) A corporation, [of a type and] for a purpose or purposes as
30 follows, may be formed under this chapter, provided consents required
31 under any other statute of this state have been obtained:

32 [Type A -] (1) A not-for-profit corporation [of this type] may be
33 formed for any lawful non-business purpose or purposes including, but
34 not limited to, any one or more of the following non-pecuniary purposes:
35 civic, patriotic, political, social, fraternal, athletic, agricultural,
36 horticultural, animal husbandry, and for a professional, commercial,
37 industrial, trade or service association[.

38 Type B - A not-for-profit corporation of this type may be formed for
39 any one or more of the following non-business purposes:], charitable,
40 educational, religious, scientific, literary, cultural or for the
41 prevention of cruelty to children or animals.

42 [Type C -] (2) A not-for-profit corporation [of this type] may be
43 formed for any lawful business purpose to achieve a lawful public or
44 quasi-public objective.

45 [Type D -] (3) A not-for-profit corporation [of this type] may be
46 formed under this chapter when such formation is authorized by any other
47 corporate law of this state for any business or non-business, or pecuni-
48 ary or non-pecuniary, purpose or purposes specified by such other law[,
49 whether such purpose or purposes are also within types A, B, C above or
50 otherwise.

51 (c) If a corporation is formed for purposes which are within both type
52 A and type B above, it is a type B corporation. If a corporation has
53 among its purposes any purpose which is within type C, such corporation
54 is a type C corporation. A type D corporation is subject to all
55 provisions of this chapter which are applicable to a type B corporation
56 under this chapter unless provided to the contrary in, and subject to

1 the contrary provisions of, the other corporate law authorizing forma-
2 tion under this chapter of the type D corporation].

3 S 38. Paragraph (d) of section 304 of the not-for-profit corporation
4 law, as amended by chapter 168 of the laws of 1982, is amended to read
5 as follows:

6 (d) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
7 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
8 AGENT OF A DOMESTIC CORPORATION OR FOREIGN CORPORATION SHALL BE DEEMED
9 TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THIS STATE, TO WHICH A
10 PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE CORPORATION AS
11 REQUIRED BY THIS ARTICLE. Any designated [post-office] POST OFFICE
12 address to which the secretary of state OR A PERSON shall mail a copy of
13 process served upon [him] THE SECRETARY OF STATE as agent of a domestic
14 corporation formed under article four of this chapter or foreign corpo-
15 ration, shall continue until the filing of a certificate under this
16 chapter directing the mailing to a different [post-office] POST OFFICE
17 address.

18 S 39. Paragraph (b) of section 306 of the not-for-profit corporation
19 law is REPEALED.

20 S 40. Paragraphs (c) and (d) of section 306 of the not-for-profit
21 corporation law are relettered paragraphs (d) and (e) and two new para-
22 graphs (b) and (c) are added to read as follows:

23 (B) SERVICE OF SUCH PROCESS UPON THE SECRETARY OF STATE AS AGENT OF A
24 DOMESTIC OR AUTHORIZED FOREIGN CORPORATION, OR OTHER BUSINESS ENTITY
25 THAT HAS DESIGNATED THE SECRETARY OF STATE AS AGENT FOR SERVICE OF PROC-
26 ESS PURSUANT TO ARTICLE NINE OF THIS CHAPTER, SHALL BE MADE BY
27 PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE OR A
28 DEPUTY, OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE
29 SUCH SERVICE, AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF
30 ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE, WHICH
31 FEE SHALL BE A TAXABLE DISBURSEMENT. SUCH SERVICE SHALL BE SUFFICIENT IF
32 NOTICE OF SUCH SERVICE ON THE SECRETARY OF STATE AND A COPY OF THE PROC-
33 ESS ARE:

34 (1) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH CORPO-
35 RATION BY A PERSON AND IN A MANNER AUTHORIZED TO SERVE PROCESS BY LAW OF
36 THE JURISDICTION IN WHICH SERVICE IS MADE; OR

37 (2) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH CORPORATION BY
38 CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED AT THE POST OFFICE ADDRESS
39 SPECIFIED FOR THE PURPOSE OF MAILING PROCESS ON FILE IN THE DEPARTMENT
40 OF STATE.

41 (C) 1. WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL
42 SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS
43 SECTION, FILED TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH
44 SERVICE, WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL
45 PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
46 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

47 2. WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
48 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
49 COMPLIANCE WITH THIS SECTION, FILED TOGETHER WITH THE PROCESS, WITHIN
50 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE CORPO-
51 RATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE
52 MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS
53 SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER
54 THE RETURN RECEIPT SIGNED BY SUCH CORPORATION OR OTHER OFFICIAL PROOF OF
55 DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE WITH
56 A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF

1 ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER WITH
2 NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE
3 PROMPTLY SENT TO SUCH CORPORATION AT THE SAME ADDRESS BY ORDINARY MAIL
4 AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL
5 BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE
6 COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN
7 THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH
8 CORPORATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
9 KNOWLEDGE OF THE CONTENTS THEREOF.

10 S 41. Subparagraphs 2, 4 and 6 of paragraph (a) of section 402 of the
11 not-for-profit corporation law, subparagraph 2 as amended by chapter 847
12 of the laws of 1970, subparagraph 4 as amended by chapter 679 of the
13 laws of 1985, and subparagraph 6 as added by chapter 564 of the laws of
14 1981 and as renumbered by chapter 132 of the laws of 1985, are amended
15 to read as follows:

16 (2) That the corporation is a corporation as defined in subparagraph
17 (5) OF PARAGRAPH (a) [(5)] of section 102 (Definitions); the purpose or
18 purposes for which it is formed [and the type of corporation it shall be
19 under section 201 (Purposes)]; and in the case of a [Type C] corporation
20 FORMED FOR ANY LAWFUL BUSINESS PURPOSE OR PURPOSES, the lawful public or
21 quasi-public objective which each business purpose will achieve.

22 (4) [In the case of a Type A, Type B, or Type C corporation, the] THE
23 names and addresses of the initial directors. [In the case of a Type D
24 corporation, the names and addresses of the initial directors, if any,
25 may but need not be set forth.]

26 (6) A designation of the secretary of state as agent of the corpo-
27 ration upon whom process against it may be served and the post office
28 address, within or without [this] THE state, to which [the secretary of
29 state] A PERSON shall mail a copy of any process against it served upon
30 [him] THE SECRETARY OF STATE.

31 S 42. Paragraph (d) of section 502 of the not-for-profit corporation
32 law is amended to read as follows:

33 (d) A member's capital contribution shall be evidenced by a capital
34 certificate [which shall be non-transferable, except that the certif-
35 icate of incorporation of a Type A corporation may provide that its
36 capital certificates, or some of them, may be transferable to other
37 members with the consent of the corporation upon specified terms and
38 conditions]. A CAPITAL CERTIFICATE SHALL BE NON-TRANSFERABLE EXCEPT AS
39 OTHERWISE PROVIDED IN THE CERTIFICATE OF INCORPORATION OF A CORPORATION
40 THAT IS NOT ORGANIZED FOR CHARITABLE PURPOSES.

41 S 43. Subparagraph 1 of paragraph (b) of section 503 of the not-for-
42 profit corporation law is REPEALED.

43 S 44. Subparagraph 1 of paragraph (b) of section 505 of the not-for-
44 profit corporation law is REPEALED.

45 S 45. Subparagraph 3 of paragraph (a) of section 510 of the not-for-
46 profit corporation law, as amended by chapter 847 of the laws of 1970,
47 is amended to read as follows:

48 (3) [If the corporation is, or would be if formed under this chapter,
49 classified as a Type B or Type C corporation under section 201,
50 (Purposes) such] A sale, lease, exchange or other disposition shall in
51 addition require leave of the supreme court in the judicial district or
52 of the county court of the county in which the corporation has its
53 office or principal place of carrying out the purposes for which it was
54 formed.

1 S 46. Paragraph (a) of section 513 of the not-for-profit corporation
2 law, as amended by chapter 690 of the laws of 1978, is amended to read
3 as follows:

4 (a) A corporation [which is, or would be if formed under this chapter,
5 classified as a Type B corporation] shall hold full ownership rights in
6 any assets consisting of funds or other real or personal property of any
7 kind, that may be given, granted, bequeathed or devised to or otherwise
8 vested in such corporation in trust for, or with a direction to apply
9 the same to, any purpose specified in its certificate of incorporation,
10 and shall not be deemed a trustee of an express trust of such assets.
11 Any other corporation subject to this chapter may similarly hold assets
12 so received, unless otherwise provided by law or in the certificate of
13 incorporation.

14 S 47. Paragraph (a) of section 601 of the not-for-profit corporation
15 law, as amended by chapter 1058 of the laws of 1971, is amended to read
16 as follows:

17 (a) A corporation [shall] MAY have one or more classes of members, or,
18 [in the case of a Type B corporation,] may have no members[, in which
19 case any such provision for classes of members or for no members]. A
20 CORPORATION WHICH HAS ONE OR MORE CLASSES OF MEMBERS shall [be] set
21 forth in the certificate of incorporation or the by-laws SUCH PROVISIONS
22 FOR CLASSES OF MEMBERS. Corporations, joint-stock associations, unin-
23 corporated associations and partnerships, as well as any other person
24 without limitation, may be members.

25 S 48. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
26 profit corporation law, as amended by chapter 438 of the laws of 1984,
27 is amended to read as follows:

28 (7) To specify or change the post office address to which [the secre-
29 tary of state] A PERSON shall mail a copy of any process against the
30 corporation served upon [him] THE SECRETARY OF STATE.

31 S 49. Subparagraph 2 of paragraph (c) of section 802 of the not-for-
32 profit corporation law, as amended by chapter 186 of the laws of 1983,
33 is amended to read as follows:

34 (2) To specify or change the post office address to which [the secre-
35 tary of state] A PERSON shall mail a copy of any process against the
36 corporation served upon [him] THE SECRETARY OF STATE.

37 S 50. Subparagraphs 3 and 6 of paragraph (a) of section 803 of the
38 not-for-profit corporation law, paragraphs 3 and 6 as amended by chapter
39 168 of the laws of 1982 and paragraph 6 as renumbered by chapter 145 of
40 the laws of 1983, are amended to read as follows:

41 (3) That the corporation is a corporation as defined in subparagraph
42 (5) OF PARAGRAPH (a) [(5)] of section 102 (Definitions)[; the type of
43 corporation it is under section 201 (Purposes); and if the corporate
44 purposes are enlarged, limited or otherwise changed, the type of corpo-
45 ration it shall thereafter be under section 201].

46 (6) A designation of the secretary of state as agent of the corpo-
47 ration upon whom process against it may be served and the post office
48 address, within or without this state, to which [the secretary of state]
49 A PERSON shall mail a copy of any process against it served upon [him]
50 THE SECRETARY OF STATE.

51 S 51. Paragraph (b) of section 803-A of the not-for-profit corporation
52 law, as amended by chapter 172 of the laws of 1999, is amended to read
53 as follows:

54 (b) A certificate of change which changes only the post office address
55 to which [the secretary of state] A PERSON shall mail a copy of any
56 process against the corporation served upon [him] THE SECRETARY OF STATE

1 or the address of the registered agent, provided such address being
2 changed is the address of a person, partnership, LIMITED LIABILITY
3 COMPANY or other corporation whose address, as agent, is the address to
4 be changed or who has been designated as registered agent for such
5 corporation, may be signed and delivered to the department of state by
6 such agent. The certificate of change shall set forth the statements
7 required under subparagraphs (1), (2) and (3) of paragraph (a) of this
8 section; that a notice of the proposed change was mailed to the corpo-
9 ration by the party signing the certificate not less than thirty days
10 prior to the date of delivery to the department and that such corpo-
11 ration has not objected thereto; and that the party signing the certif-
12 icate is the agent of such corporation to whose address [the secretary
13 of state] A PERSON is required to mail [copies] A COPY of any process
14 against the corporation served upon [him] THE SECRETARY OF STATE or the
15 registered agent, if such be the case. A certificate signed and deliv-
16 ered under this paragraph shall not be deemed to effect a change of
17 location of the office of the corporation in whose behalf such certif-
18 icate is filed.

19 S 52. Subparagraph (ii) of paragraph (a) of section 804 of the not-
20 for-profit corporation law, as amended by chapter 139 of the laws of
21 1993, is amended to read as follows:

22 [(ii)] Every certificate of amendment of a corporation [classified as
23 type B or type C under section 201 (Purposes)] which seeks to change or
24 eliminate a purpose or power enumerated in the corporation's certificate
25 of incorporation, or to add a power or purpose not enumerated therein,
26 shall have endorsed thereon or annexed thereto the approval of a justice
27 of the supreme court of the judicial district in which the office of the
28 corporation is located. Ten days' written notice of the application for
29 such approval shall be given to the attorney-general.

30 S 53. Clause (E) of subparagraph 2 of paragraph (d) of section 906 of
31 the not-for-profit corporation law, as amended by chapter 1058 of the
32 laws of 1971, is amended to read as follows:

33 (E) A designation of the secretary of state as its agent upon whom
34 process against it may be served in the manner set forth in paragraph
35 (b) of section 306 (Service of process), in any action or special
36 proceeding described in [subparagraph] CLAUSE (D) OF THIS SUBPARAGRAPH
37 and a post office address, within or without this state, to which [the
38 secretary of state] A PERSON shall mail a copy of the process in such
39 action or special proceeding SERVED UPON THE SECRETARY OF STATE.

40 S 54. Paragraphs (a) and (c) of section 907 of the not-for-profit
41 corporation law are amended to read as follows:

42 (a) [Where any constituent corporation or the consolidated corporation
43 is, or would be if formed under this chapter, a Type B or a Type C
44 corporation under section 201 (Purposes) of this chapter, no] NO certif-
45 icate shall be filed pursuant to section 904 (Certificate of merger or
46 consolidation; contents) or section 906 (Merger or consolidation of
47 domestic and foreign corporations) until an order approving the plan of
48 merger or consolidation and authorizing the filing of the certificate
49 has been made by the supreme court, as provided in this section. A
50 certified copy of such order shall be annexed to the certificate of
51 merger or consolidation. Application for the order may be made in the
52 judicial district in which the principal office of the surviving or
53 consolidated corporation is to be located, or in which the office of one
54 of the domestic constituent corporations is located. The application
55 shall be made by all the constituent corporations jointly and shall set
56 forth by affidavit (1) the plan of merger or consolidation, (2) the

1 approval required by section 903 (Approval of plan) or paragraph (b) of
2 section 906 (Merger or consolidation of domestic and foreign corpo-
3 rations) for each constituent corporation, (3) the objects and purposes
4 of each such corporation to be promoted by the consolidation, (4) a
5 statement of all property, and the manner in which it is held, and of
6 all liabilities and of the amount and sources of the annual income of
7 each such corporation, (5) whether any votes against adoption of the
8 resolution approving the plan of merger or consolidation were cast at
9 the meeting at which the resolution as adopted by each constituent
10 corporation, and (6) facts showing that the consolidation is authorized
11 by the laws of the jurisdictions under which each of the constituent
12 corporations is incorporated.

13 (c) If the court shall find that any of the assets of any of the
14 constituent corporations are held for [a] ANY purpose specified [as Type
15 B] in paragraph (b) of section 201 or are legally required to be used
16 for a particular purpose, but not upon a condition requiring return,
17 transfer or conveyance by reason of the merger or consolidation, the
18 court may, in its discretion, direct that such assets be transferred or
19 conveyed to the surviving or consolidated corporation subject to such
20 purpose or use, or that such assets be transferred or conveyed to the
21 surviving or consolidated corporation or to one or more other domestic
22 or foreign corporations or organizations engaged in substantially simi-
23 lar activities, upon an express trust the terms of which shall be
24 approved by the court.

25 S 55. Paragraph (a), clause (F) of subparagraph 2 of paragraph (d) and
26 paragraph (f) of section 908 of the not-for-profit corporation law are
27 amended to read as follows:

28 (a) One or more domestic or foreign corporations [which is, or would
29 be if formed under this chapter, a type A or type C corporation under
30 section 201 (Purposes)] may be merged or consolidated into a domestic or
31 foreign corporation which is, or would be if formed under the laws of
32 this state, a corporation formed under the business corporation law of
33 this state if such merger or consolidation is not contrary to the law of
34 the state of incorporation of any constituent corporation. With respect
35 to such merger or consolidation, any reference in paragraph (b) of
36 section 901 [of this article] (POWER OF MERGER OR CONSOLIDATION) or
37 paragraph (b) of section 901 of the business corporation law to a corpo-
38 ration shall, unless the context otherwise requires, include both domes-
39 tic and foreign corporations.

40 (F) A designation of the secretary of state as his OR HER agent upon
41 whom process against it may be served in the manner set forth in para-
42 graph (b) of section 306 (Service of process), in any action or special
43 proceeding described in [subparagraph] CLAUSE (D) OF THIS SUBPARAGRAPH
44 and a post office address, within or without the state, to which [the
45 secretary of state] A PERSON shall mail a copy of the process in such
46 action or special proceeding SERVED UPON THE SECRETARY OF STATE.

47 (f) [Where any constituent corporation is, or would be if formed under
48 this chapter, a Type C corporation under section 201 (Purposes), no] NO
49 certificate shall be filed pursuant to this section until an order
50 approving the plan of merger or consolidation and authorizing the filing
51 of the certificate has been made by the supreme court, as provided in
52 section 907 (Approval by the supreme court).

53 S 56. Paragraphs (b) and (c) and subparagraph 3 of paragraph (d) of
54 section 1001 of the not-for-profit corporation law, as amended by chap-
55 ter 434 of the laws of 2006, are amended to read as follows:

1 (b) If the corporation [is a Type B, C or D corporation and] has no
2 assets to distribute and no liabilities at the time of dissolution, the
3 plan of dissolution shall include a statement to that effect.

4 (c) If the corporation [is a Type B, C or D corporation and] has no
5 assets to distribute, other than a reserve not to exceed twenty-five
6 thousand dollars for the purpose of paying ordinary and necessary
7 expenses of winding up its affairs including attorney and accountant
8 fees, and liabilities not in excess of ten thousand dollars at the time
9 of adoption of the plan of dissolution, the plan of dissolution shall
10 include a statement to that effect.

11 (3) if there are assets received and held by the corporation [either]
12 for a purpose specified [as Type B] in paragraph (b) of section 201
13 (Purposes) or which are legally required to be used for a particular
14 purpose, a statement that the assets owned by the corporation, subject
15 to any unpaid liabilities of the corporation, shall be distributed as
16 required by any gift instrument or to a charitable organization or
17 organizations exempt from taxation pursuant to federal and state laws
18 and engaged in activities substantially similar to those of the
19 dissolved corporation. Each such recipient organization shall be iden-
20 tified and the governing instrument and amendments thereto of each of
21 the proposed recipient organizations shall be annexed to such statement,
22 along with the financial reports of each recipient organization for the
23 last three years and a sworn affidavit from a director and officer of
24 each recipient organization stating the purposes of the organization,
25 and that it is currently exempt from federal income taxation.

26 S 57. Section 1002 of the not-for-profit corporation law, as amended
27 by chapter 434 of the laws of 2006, is amended to read as follows:
28 S 1002. Authorization of plan.

29 (a) Upon adopting a plan of dissolution and distribution of assets,
30 the board shall submit it to a vote of the members, if any, and such
31 plan shall be approved at a meeting of members by two-thirds vote as
32 provided in paragraph (c) of section 613 (Vote of members); provided,
33 however, that if the corporation [is a Type B, C or D corporation],
34 other than a corporation incorporated pursuant to article 15 (Public
35 cemetery corporations), [and] has no assets to distribute, other than a
36 reserve not to exceed twenty-five thousand dollars for the purpose of
37 paying ordinary and necessary expenses of winding up its affairs includ-
38 ing attorney and accountant fees, and liabilities not in excess of ten
39 thousand dollars at the time of adoption of the plan of dissolution, the
40 vote required by the corporation's board of directors for adoption of
41 the plan of dissolution of such a corporation or by the corporation's
42 members for the authorization thereof shall be:

43 (1) In the case of a vote by the board of directors: (i) the number of
44 directors required under the certificate of incorporation, by-laws, this
45 chapter and any other applicable law; or

46 (ii) if the number of directors actually holding office as such at the
47 time of the vote to adopt the plan is less than the number required to
48 constitute a quorum of directors under the certificate of incorporation,
49 the by-laws, this chapter or any other applicable law, the remaining
50 directors unanimously;

51 (2) In the case of a vote by the members, (i) the number of members
52 required under the certificate of incorporation, by-laws, this chapter
53 and any other applicable law; or (ii) by the vote of members authorized
54 by an order of the supreme court pursuant to section 608 [of this chap-
55 ter] (QUORUM AT MEETING OF MEMBERS) permitting the corporation to
56 dispense with the applicable quorum requirement.

1 Notice of a special or regular meeting of the board of directors or of
2 the members entitled to vote on adoption and authorization or approval
3 of the plan of dissolution shall be sent to all the directors and
4 members of record entitled to vote. Unless otherwise directed by order
5 of the supreme court pursuant to section 608 [of this chapter] (QUORUM
6 AT MEETING OF MEMBERS), the notice shall be sent by certified mail,
7 return receipt requested, to the last known address of record of each
8 director and member not fewer than thirty, and not more than sixty days
9 before the date of each meeting provided, however, that if the last
10 known address of record of any director or member is not within the
11 United States, the notice to such director shall be sent by any other
12 reasonable means.

13 (b) If there are no members entitled to vote on the dissolution of the
14 corporation, the plan of dissolution and distribution of assets shall be
15 deemed authorized upon its adoption by the board.

16 (c) Whenever a statute creating, or authorizing the formation of, a
17 corporation requires approval by a governmental body or officer for the
18 formation of such corporation, dissolution shall not be authorized with-
19 out the approval of such body or officer.

20 (d) The plan of dissolution and distribution of assets shall have
21 annexed thereto the approval of a justice of the supreme court in the
22 judicial district in which the office of the corporation is located [in
23 the case of a Type B, C or D corporation, and in the case of any other
24 corporation which holds assets at the time of dissolution legally
25 required to be used for a particular purpose,] except that no such
26 approval shall be required with respect to the plan of dissolution of a
27 corporation, other than a corporation incorporated pursuant to article
28 15 (Public cemetery corporations), which has no assets to distribute at
29 the time of dissolution, other than a reserve not to exceed twenty-five
30 thousand dollars for the purpose of paying ordinary and necessary
31 expenses of winding up its affairs including attorney and accountant
32 fees, and liabilities not in excess of ten thousand dollars, and which
33 has complied with the requirements of section 1001 (Plan of dissolution
34 and distribution of assets) and this section applicable to such a corpo-
35 ration. Application to the supreme court for an order for such approval
36 shall be by verified petition, with the plan of dissolution and distrib-
37 ution of assets and certified copies of the consents prescribed by this
38 section annexed thereto, and upon ten days written notice to the attor-
39 ney general accompanied by copies of such petition, plan and consents.
40 In such case where approval of a justice of the supreme court is not
41 required [for a Type B, C or D corporation,] a copy of such plan certi-
42 fied under penalties of perjury shall be filed with the attorney general
43 within ten days after its authorization.

44 S 58. Subparagraph 1 of paragraph (c) of section 1002-a of the not-
45 for-profit corporation law, as amended by chapter 434 of the laws of
46 2006, is amended to read as follows:

47 (1) assets received and held by the corporation [either for a purpose
48 specified as Type B in paragraph (b) of section 201 (Purposes) or which
49 are legally required to be used for a particular purpose,] shall be
50 distributed to one or more domestic or foreign corporations or other
51 organizations engaged in activities substantially similar to those of
52 the dissolved corporation pursuant to the plan of dissolution and
53 distribution or, if applicable, as ordered by the court to which such
54 plan is submitted for approval under section 1002 (Authorization of
55 plan). Any disposition of assets contained in a will or other instru-
56 ment, in trust or otherwise, made before or after the dissolution, to or

1 for the benefit of any corporation so dissolved shall inure to or for
2 the benefit of the corporation or organization acquiring such assets of
3 the dissolved corporation as provided in this section, and so far as is
4 necessary for that purpose the corporation or organization acquiring
5 such disposition shall be deemed a successor to the dissolved corpo-
6 ration with respect to such assets; provided, however, that such dispo-
7 sition shall be devoted by the acquiring corporation or organization to
8 the purposes intended by the testator, donor or grantor.

9 S 59. Subparagraph 4 of paragraph (a) of section 1003 of the not-for-
10 profit corporation law is REPEALED.

11 S 60. Subparagraph 2 of paragraph (b) of section 1003 of the not-for-
12 profit corporation law, as amended by chapter 434 of the laws of 2006,
13 is amended to read as follows:

14 (2) By the attorney general [in the case of a Type B, C or D corpo-
15 ration, or any other corporation that holds assets at the time of
16 dissolution legally required to be used for a particular purpose].

17 S 61. Subparagraph 15 of paragraph (a) of section 1008 of the not-for-
18 profit corporation law, as amended by chapter 434 of the laws of 2006,
19 is amended to read as follows:

20 (15) Where assets were received and held by the corporation either for
21 a purpose specified [as Type B] in paragraph (b) of section 201
22 (Purposes), or were legally required to be used for a particular
23 purpose, the distribution of such assets to one or more domestic or
24 foreign corporations or other organizations engaged in activities
25 substantially similar to those of the dissolved corporation, on notice
26 to the attorney general and to such other persons, and in such manner,
27 as the court may deem proper.

28 S 62. Subparagraph 6 of paragraph (a) and paragraph (h) of section
29 1012 of the not-for-profit corporation law are REPEALED.

30 S 63. Section 1302 of the not-for-profit corporation law, as amended
31 by chapter 847 of the laws of 1970, is amended to read as follows:

32 S 1302. Application to existing authorized foreign corporations.

33 Every foreign corporation which on the effective date of this chapter
34 is authorized to conduct activities in this state under a certificate of
35 authority heretofore issued to it by the secretary of state shall
36 continue to have such authority. Such foreign corporation, its members,
37 directors, and officers shall have the same rights, franchises, and
38 privileges and shall be subject to the same limitations, restrictions,
39 liabilities, and penalties as a foreign corporation authorized under
40 this chapter, its members, directors, and officers respectively. [A
41 foreign corporation may by amendment to its certificate of authority set
42 forth the type of corporation it is under section 201 (Purposes); and in
43 the absence of such amendment an authorized foreign corporation shall be
44 a Type B corporation.] Reference in this chapter to an application for
45 authority shall, unless the context otherwise requires, include the
46 statement and designation and any amendment thereof required to be filed
47 by the secretary of state under prior statutes to obtain a certificate
48 of authority.

49 S 64. Intentionally omitted.

50 S 65. Subparagraphs 4 and 6 of paragraph (a) of section 1304 of the
51 not-for-profit corporation law, subparagraph 4 as amended by chapter 847
52 of the laws of 1970 and such subparagraphs as renumbered by chapter 590
53 of the laws of 1982, are amended to read as follows:

54 (4) That the corporation is a foreign corporation as defined in
55 subparagraph [(a)] (7) OF PARAGRAPH (A) of section 102 (Definitions);
56 [the type of corporation it shall be under section 201 (Purposes);] a

1 statement of its purposes to be pursued in this state and of the activ-
2 ities which it proposes to conduct in this state; a statement that it is
3 authorized to conduct those activities in the jurisdiction of its incor-
4 poration; and in the case of a [Type C] corporation THAT WILL PURSUE ANY
5 LAWFUL BUSINESS PURPOSE OR PURPOSES IN THIS STATE, the lawful public or
6 quasi-public objective which each business purpose will achieve.

7 (6) A designation of the secretary of state as its agent upon whom
8 process against it may be served and the post office address, within or
9 without this state, to which [the secretary of state] A PERSON shall
10 mail a copy of any process against it served upon [him] THE SECRETARY OF
11 STATE.

12 S 66. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
13 profit corporation law, as renumbered by chapter 186 of the laws of
14 1983, is amended to read as follows:

15 (7) To specify or change the post office address to which [the secre-
16 tary of state] A PERSON shall mail a copy of any process against it
17 served upon [him] THE SECRETARY OF STATE.

18 S 67. Subparagraph 2 of paragraph (a) and paragraph (c) of section
19 1310 of the not-for-profit corporation law, paragraph (c) as amended by
20 chapter 172 of the laws of 1999, are amended to read as follows:

21 (2) To specify or change the post office address to which [the secre-
22 tary of state] A PERSON shall mail a copy of any process against it
23 served upon [him] THE SECRETARY OF STATE.

24 (c) A certificate of change of application for authority which changes
25 only the post office address to which [the secretary of state] A PERSON
26 shall mail a copy of any process against an authorized foreign corpo-
27 ration served upon [him] THE SECRETARY OF STATE or which changes the
28 address of its registered agent, provided such address is the address of
29 a person, partnership, LIMITED LIABILITY COMPANY or other corporation
30 whose address, as agent, is the address to be changed or who has been
31 designated as registered agent for such authorized foreign corporation,
32 may be signed and delivered to the department of state by such agent.
33 The certificate of change of application for authority shall set forth
34 the statements required under subparagraphs (1), (2), (3) and (4) of
35 paragraph (b) of this section; that a notice of the proposed change was
36 mailed by the party signing the certificate to the authorized foreign
37 corporation not less than thirty days prior to the date of delivery to
38 the department and that such corporation has not objected thereto; and
39 that the party signing the certificate is the agent of such foreign
40 corporation to whose address [the secretary of state] A PERSON is
41 required to mail copies of process SERVED ON THE SECRETARY OF STATE or
42 the registered agent, if such be the case. A certificate signed and
43 delivered under this paragraph shall not be deemed to effect a change of
44 location of the office of the corporation in whose behalf such certif-
45 icate is filed.

46 S 68. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph
47 (d) of section 1311 of the not-for-profit corporation law are amended to
48 read as follows:

49 (6) A post office address, within or without this state, to which [the
50 secretary of state] A PERSON shall mail a copy of any process against it
51 served upon [him] THE SECRETARY OF STATE.

52 (4) The changed post office address, within or without this state, to
53 which [the secretary of state] A PERSON shall mail a copy of any process
54 against it served upon [him] THE SECRETARY OF STATE.

55 S 69. Section 1312 of the not-for-profit corporation law, as amended
56 by chapter 375 of the laws of 1998, is amended to read as follows:

1 S 1312. Termination of existence.

2 When an authorized foreign corporation is dissolved or its authority
3 or existence is otherwise terminated or cancelled in the jurisdiction of
4 its incorporation or when such foreign corporation is merged into or
5 consolidated with another foreign corporation, a certificate of the
6 secretary of state, or official performing the equivalent function as to
7 corporate records, of the jurisdiction of incorporation of such foreign
8 corporation attesting to the occurrence of any such event or a certified
9 copy of an order or decree of a court of such jurisdiction directing the
10 dissolution of such foreign corporation, the termination of its exist-
11 ence or the cancellation of its authority shall be delivered to the
12 department of state. The filing of the certificate, order or decree
13 shall have the same effect as the filing of a certificate of surrender
14 of authority under section 1311 (Surrender of authority). The secretary
15 of state shall continue as agent of the foreign corporation upon whom
16 process against it may be served in the manner set forth in paragraph
17 (b) of section 306 (Service of process), in any action or special
18 proceeding based upon any liability or obligation incurred by the
19 foreign corporation within this state prior to the filing of such
20 certificate, order or decree and [he] THE PERSON SERVING SUCH PROCESS
21 shall promptly cause a copy of any such process to be mailed by [regis-
22 tered] CERTIFIED mail, return receipt requested, to such foreign corpo-
23 ration at the post office address on file in [his] THE office OF THE
24 SECRETARY OF STATE specified for such purpose. The post office address
25 may be changed by signing and delivering to the department of state a
26 certificate of change setting forth the statements required under
27 section 1310 (Certificate of change, contents) to effect a change in the
28 post office address under subparagraph [(a)] (4) OF PARAGRAPH (A) of
29 section 1308 (Amendments or changes).

30 S 70. Subparagraphs 1, 2 and 3 of paragraph (a) of section 1321 of the
31 not-for-profit corporation law, as amended by chapter 847 of the laws of
32 1970, are amended to read as follows:

33 [(1)] The [corporation is a Type A corporation under this chapter;
34 its] CORPORATION'S principal activities are conducted outside this
35 state; [the greater part of its property is located outside this state;]
36 and (1) less than one third of its members are residents of this state;
37 or

38 (2) [The corporation is a Type B corporation under this chapter; its
39 principal activities are conducted outside this state; the greater part
40 of its property is located outside this state; and] less than ten per
41 cent of its annual revenues is derived from solicitation of funds within
42 this state; or

43 (3) [The corporation is a Type C corporation under this chapter; its
44 principal activities are conducted outside this state; the greater part
45 of its property is located outside this state; and] less than one half
46 of its revenues for the preceding three fiscal years, or such portion
47 thereof as the foreign corporation was in existence, was derived from
48 sources within this state.

49 S 71. Paragraph (d) of section 1401 of the not-for-profit corporation
50 law is REPEALED.

51 S 72. Paragraph (b) of section 1402 of the not-for-profit corporation
52 law is REPEALED.

53 S 73. Paragraph (c) of section 1403 of the not-for-profit corporation
54 law is REPEALED.

55 S 74. Paragraph (b) of section 1404 of the not-for-profit corporation
56 law is REPEALED.

1 S 75. Paragraph (b) of section 1405 of the not-for-profit corporation
2 law is REPEALED.

3 S 76. Paragraph (b) of section 1406 of the not-for-profit corporation
4 law is REPEALED.

5 S 77. Paragraph (b) of section 1407 of the not-for-profit corporation
6 law is REPEALED.

7 S 78. Paragraph (b) of section 1408 of the not-for-profit corporation
8 law is REPEALED.

9 S 79. Paragraph (b) of section 1409 of the not-for-profit corporation
10 law is REPEALED.

11 S 80. Paragraph (b) of section 1410 of the not-for-profit corporation
12 law is REPEALED.

13 S 81. Paragraph (b) of section 1411 of the not-for-profit corporation
14 law is REPEALED.

15 S 82. Paragraph (d) of section 1412 of the not-for-profit corporation
16 law is REPEALED.

17 S 83. Paragraph (c) of section 1505 of the not-for-profit corporation
18 law is REPEALED.

19 S 84. Subdivision (c) of section 121-104 of the partnership law, as
20 added by chapter 950 of the laws of 1990, is amended to read as follows:

21 (c) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF
22 STATE SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF
23 STATE AS AGENT OF A DOMESTIC LIMITED PARTNERSHIP OR FOREIGN LIMITED
24 PARTNERSHIP SHALL BE DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR
25 WITHOUT THIS STATE, TO WHICH A PERSON SHALL MAIL A COPY OF PROCESS
26 SERVED AGAINST THE LIMITED PARTNERSHIP AS REQUIRED BY THIS ARTICLE. Any
27 designated post office address to which the secretary of state OR A
28 PERSON shall mail a copy of process served upon [him] THE SECRETARY OF
29 STATE as agent of a domestic limited partnership or foreign limited
30 partnership shall continue until the filing of a certificate under this
31 article directing the mailing to a different post office address.

32 S 85. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of
33 the partnership law, as added by chapter 448 of the laws of 1998, are
34 amended to read as follows:

35 (1) the name of the limited partnership and the date that its [arti-
36 cles of organization] CERTIFICATE OF LIMITED PARTNERSHIP or application
37 for authority was filed by the department of state.

38 (2) that the address of the party has been designated by the limited
39 partnership as the post office address to which [the secretary of state]
40 A PERSON shall mail a copy of any process served on the secretary of
41 state as agent for such limited partnership, and that such party wishes
42 to resign.

43 (3) that sixty days prior to the filing of the certificate of resigna-
44 tion FOR RECEIPT OF PROCESS with the department of state the party has
45 sent a copy of the certificate of resignation for receipt of process by
46 registered or certified mail to the address of the registered agent of
47 the [designated] DESIGNATING limited partnership, if other than the
48 party filing the certificate of resignation[,] for receipt of process,
49 or if the [resigning] DESIGNATING limited partnership has no registered
50 agent, then to the last address of the [designated] DESIGNATING limited
51 partnership, known to the party, specifying the address to which the
52 copy was sent. If there is no registered agent and no known address of
53 the designating limited partnership the party shall attach an affidavit
54 to the certificate stating that a diligent but unsuccessful search was
55 made by the party to locate the limited partnership, specifying what
56 efforts were made.

1 S 86. Subdivision (a) of section 121-109 of the partnership law is
2 REPEALED and a new subdivision (a) is added to read as follows:

3 (A) (1) SERVICE OF SUCH PROCESS UPON THE SECRETARY OF STATE AS AGENT
4 OF A DOMESTIC OR AUTHORIZED FOREIGN LIMITED PARTNERSHIP, OR OTHER BUSI-
5 NESS ENTITY THAT HAS DESIGNATED THE SECRETARY OF STATE AS AGENT FOR
6 SERVICE OF PROCESS PURSUANT TO THIS CHAPTER, SHALL BE MADE BY PERSONALLY
7 DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE OR A DEPUTY, OR
8 WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE SUCH
9 SERVICE, AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF ALBANY,
10 A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE, WHICH FEE SHALL
11 BE A TAXABLE DISBURSEMENT. SUCH SERVICE SHALL BE SUFFICIENT IF NOTICE OF
12 SUCH SERVICE ON THE SECRETARY OF STATE AND A COPY OF THE PROCESS ARE:

13 (I) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH LIMITED
14 PARTNERSHIP BY A PERSON AND IN THE MANNER AUTHORIZED TO SERVE PROCESS BY
15 LAW OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

16 (II) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH LIMITED PARTNERSHIP
17 BY CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED, AT THE POST OFFICE
18 ADDRESS SPECIFIED FOR THE PURPOSE OF MAILING PROCESS, ON FILE IN THE
19 DEPARTMENT OF STATE.

20 (2) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL
21 SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS
22 SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH
23 SERVICE, WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL
24 PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
25 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

26 (3) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
27 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
28 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
29 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE LIMITED
30 PARTNERSHIP, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL
31 ENVELOPE MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH
32 THIS SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE
33 EITHER THE RETURN RECEIPT SIGNED BY SUCH LIMITED PARTNERSHIP OR OTHER
34 OFFICIAL PROOF OF DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE
35 ORIGINAL ENVELOPE WITH A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPT-
36 ANCE WAS REFUSED. IF ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND
37 PROCESS TOGETHER WITH NOTICE OF THE MAILING BY CERTIFIED MAIL AND
38 REFUSAL TO ACCEPT SHALL BE PROMPTLY SENT TO SUCH LIMITED PARTNERSHIP AT
39 THE SAME ADDRESS BY ORDINARY MAIL AND THE AFFIDAVIT OF COMPLIANCE SHALL
40 SO STATE. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS AFTER SUCH
41 PAPERS ARE FILED WITH THE CLERK OF THE COURT. THE REFUSAL TO ACCEPT
42 DELIVERY OF THE CERTIFIED MAIL OR TO SIGN THE RETURN RECEIPT SHALL NOT
43 AFFECT THE VALIDITY OF THE SERVICE AND SUCH LIMITED PARTNERSHIP REFUSING
44 TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH KNOWLEDGE OF THE
45 CONTENTS THEREOF.

46 S 87. Paragraph 3 of subdivision (a) of section 121-201 of the part-
47 nership law, as amended by chapter 264 of the laws of 1991, is amended
48 to read as follows:

49 (3) a designation of the secretary of state as agent of the limited
50 partnership upon whom process against it may be served and the post
51 office address, within or without this state, to which [the secretary of
52 state] A PERSON shall mail a copy of any process against it served upon
53 [him] THE SECRETARY OF STATE;

54 S 88. Paragraph 4 of subdivision (b) of section 121-202 of the part-
55 nership law, as amended by chapter 576 of the laws of 1994, is amended
56 to read as follows:

(4) a change in the name of the limited partnership, or a change in the post office address to which [the secretary of state] A PERSON shall mail a copy of any process against the limited partnership served on [him] THE SECRETARY OF STATE, or a change in the name or address of the registered agent, if such change is made other than pursuant to section 121-104 or 121-105 of this article.

S 89. Section 121-202-A of the partnership law, as added by chapter 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by chapter 172 of the laws of 1999, is amended to read as follows:

S 121-202-A. Certificate of change. (a) A certificate of limited partnership may be changed by filing with the department of state a certificate of change entitled "Certificate of Change of (name of limited partnership) under Section 121-202-A of the Revised Limited Partnership Act" and shall be signed and delivered to the department of state. A certificate of change may (i) specify or change the location of the limited partnership's office; (ii) specify or change the post office address to which [the secretary of state] A PERSON shall mail a copy of process against the limited partnership served upon [him] THE SECRETARY OF STATE; and (iii) make, revoke or change the designation of a registered agent, or to specify or change the address of its registered agent. It shall set forth:

(1) the name of the limited partnership, and if it has been changed, the name under which it was formed;

(2) the date its certificate of limited partnership was filed by the department of state; and

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which [the secretary of state] A PERSON shall mail a copy of any process against a limited partnership served upon [him] THE SECRETARY OF STATE or the address of the registered agent, provided such address being changed is the address of a person, partnership, LIMITED LIABILITY COMPANY or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the domestic limited partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such domestic limited partnership has not objected thereto; and that the party signing the certificate is the agent of such limited partnership to whose address [the secretary of state] A PERSON is required to mail [copies] A COPY of process SERVED ON THE SECRETARY OF STATE or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited partnership in whose behalf such certificate is filed.

S 90. Paragraph 4 of subdivision (a) of section 121-902 of the partnership law, as amended by chapter 172 of the laws of 1999, is amended to read as follows:

(4) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [the secretary of state] A PERSON shall mail a copy of any process against it served upon [him] THE SECRETARY OF STATE;

1 S 91. Section 121-903-A of the partnership law, as added by chapter
2 448 of the laws of 1998, is amended to read as follows:

3 S 121-903-A. Certificate of change. (a) A foreign limited partnership
4 may change its application for authority by filing with the department
5 of state a certificate of change entitled "Certificate of Change
6 of (name of limited partnership) under Section 121-903-A of the
7 Revised Limited Partnership Act" and shall be signed and delivered to
8 the department of state. A certificate of change may (i) change the
9 location of the limited partnership's office; (ii) change the post
10 office address to which [the secretary of state] A PERSON shall mail a
11 copy of process against the limited partnership served upon [him] THE
12 SECRETARY OF STATE; and (iii) make, revoke or change the designation of
13 a registered agent, or to specify or change the address of its regis-
14 tered agent. It shall set forth:

15 (1) the name of the foreign limited partnership and, if applicable,
16 the fictitious name the foreign limited partnership has agreed to use in
17 this state pursuant to section 121-902 of this article;

18 (2) the date its application for authority was filed by the department
19 of state; and

20 (3) each change effected thereby.

21 (b) A certificate of change which changes only the post office address
22 to which [the secretary of state] A PERSON shall mail a copy of any
23 process against a foreign limited partnership served upon [him] THE
24 SECRETARY OF STATE or the address of the registered agent, provided such
25 address being changed is the address of a person, partnership, LIMITED
26 LIABILITY COMPANY or corporation whose address, as agent, is the address
27 to be changed or who has been designated as registered agent for such
28 foreign limited partnership shall be signed and delivered to the depart-
29 ment of state by such agent. The certificate of change shall set forth
30 the statements required under subdivision (a) of this section; that a
31 notice of the proposed change was mailed to the foreign limited partner-
32 ship by the party signing the certificate not less than thirty days
33 prior to the date of delivery to the department of state and that such
34 foreign limited partnership has not objected thereto; and that the party
35 signing the certificate is the agent of such foreign limited partnership
36 to whose address [the secretary of state] A PERSON is required to mail
37 [copies] A COPY of process SERVED ON THE SECRETARY OF STATE or the
38 registered agent, if such be the case. A certificate signed and deliv-
39 ered under this subdivision shall not be deemed to effect a change of
40 location of the office of the limited partnership in whose behalf such
41 certificate is filed.

42 S 92. Paragraph 6 of subdivision (b) of section 121-905 of the part-
43 nership law, as added by chapter 950 of the laws of 1990, is amended to
44 read as follows:

45 (6) a post office address, within or without this state, to which [the
46 secretary of state] A PERSON shall mail a copy of any process against it
47 served upon [him] THE SECRETARY OF STATE.

48 S 93. Paragraph 7 of subdivision (a) of section 121-1103 of the part-
49 nership law, as added by chapter 950 of the laws of 1990, is amended to
50 read as follows:

51 (7) A designation of the secretary of state as its agent upon whom
52 process against it may be served in the manner set forth in section
53 121-109 of this article in any action or special proceeding, and a post
54 office address, within or without this state, to which [the secretary of
55 state] A PERSON shall mail a copy of any process served upon [him] THE

1 SECRETARY OF STATE. Such post office address shall supersede any prior
2 address designated as the address to which process shall be mailed.

3 S 94. Subparagraphs 2 and 4 of paragraph (I) of subdivision (a) of
4 section 121-1500 of the partnership law, subparagraph 2 as added by
5 chapter 576 of the laws of 1994 and subparagraph 4 as amended by chapter
6 643 of the laws of 1995 and such paragraph as redesignated by chapter
7 767 of the laws of 2005, are amended to read as follows:

8 (2) the address, WITHIN THIS STATE, of the principal office of the
9 partnership without limited partners;

10 (4) a designation of the secretary of state as agent of the partner-
11 ship without limited partners upon whom process against it may be served
12 and the post office address, within or without this state, to which [the
13 secretary of state] A PERSON shall mail a copy of any process against it
14 [or] served [upon it] ON THE SECRETARY OF STATE;

15 S 95. Subdivision (j-1) of section 121-1500 of the partnership law, as
16 added by chapter 448 of the laws of 1998, is amended to read as follows:

17 (j-1) A certificate of change which changes only the post office
18 address to which [the secretary of state] A PERSON shall mail a copy of
19 any process against a registered limited liability partnership served
20 upon [him] THE SECRETARY OF STATE or the address of the registered
21 agent, provided such address being changed is the address of a person,
22 partnership, LIMITED LIABILITY COMPANY, or corporation whose address, as
23 agent, is the address to be changed or who has been designated as regis-
24 tered agent for such registered limited liability partnership shall be
25 signed and delivered to the department of state by such agent. The
26 certificate of change shall set forth: (i) the name of the registered
27 limited liability partnership and, if it has been changed, the name
28 under which it was originally filed with the department of state; (ii)
29 the date of filing of its initial registration or notice statement;
30 (iii) each change effected thereby; (iv) that a notice of the proposed
31 change was mailed to the limited liability partnership by the party
32 signing the certificate not less than thirty days prior to the date of
33 delivery to the department of state and that such limited liability
34 partnership has not objected thereto; and (v) that the party signing the
35 certificate is the agent of such limited liability partnership to whose
36 address [the secretary of state] A PERSON is required to mail [copies] A
37 COPY of process SERVED ON THE SECRETARY OF STATE or the registered
38 agent, if such be the case. A certificate signed and delivered under
39 this subdivision shall not be deemed to effect a change of location of
40 the office of the limited liability partnership in whose behalf such
41 certificate is filed. The certificate of change shall be accompanied by
42 a fee of five dollars.

43 S 96. Subdivision (a) of section 121-1502 of the partnership law, as
44 amended by chapter 643 of the laws of 1995, paragraph (v) as amended by
45 chapter 470 of the laws of 1997, is amended to read as follows:

46 (a) In order for a foreign limited liability partnership to carry on
47 or conduct or transact business or activities as a New York registered
48 foreign limited liability partnership in this state, such foreign limit-
49 ed liability partnership shall file with the department of state a
50 notice which shall set forth: (i) the name under which the foreign
51 limited liability partnership intends to carry on or conduct or transact
52 business or activities in this state; (ii) the date on which and the
53 jurisdiction in which it registered as a limited liability partnership;
54 (iii) the address, WITHIN THIS STATE, of the principal office of the
55 foreign limited liability partnership; (iv) the profession or
56 professions to be practiced by such foreign limited liability partner-

1 ship and a statement that it is a foreign limited liability partnership
2 eligible to file a notice under this chapter; (v) a designation of the
3 secretary of state as agent of the foreign limited liability partnership
4 upon whom process against it may be served and the post office address,
5 within or without this state, to which [the secretary of state] A PERSON
6 shall mail a copy of any process against it [or] served upon [it] THE
7 SECRETARY OF STATE; (vi) if the foreign limited liability partnership is
8 to have a registered agent, its name and address in this state and a
9 statement that the registered agent is to be the agent of the foreign
10 limited liability partnership upon whom process against it may be
11 served; (vii) a statement that its registration as a limited liability
12 partnership is effective in the jurisdiction in which it registered as a
13 limited liability partnership at the time of the filing of such notice;
14 (viii) a statement that the foreign limited liability partnership is
15 filing a notice in order to obtain status as a New York registered
16 foreign limited liability partnership; (ix) if the registration of the
17 foreign limited liability partnership is to be effective on a date later
18 than the time of filing, the date, not to exceed sixty days from the
19 date of filing, of such proposed effectiveness; and (x) any other
20 matters the foreign limited liability partnership determines to include
21 in the notice. Such notice shall be accompanied by either (1) a copy of
22 the last registration or renewal registration (or similar filing), if
23 any, filed by the foreign limited liability partnership with the juris-
24 diction where it registered as a limited liability partnership or (2) a
25 certificate, issued by the jurisdiction where it registered as a limited
26 liability partnership, substantially to the effect that such foreign
27 limited liability partnership has filed a registration as a limited
28 liability partnership which is effective on the date of the certificate
29 (if such registration, renewal registration or certificate is in a
30 foreign language, a translation thereof under oath of the translator
31 shall be attached thereto). Such notice shall also be accompanied by a
32 fee of two hundred fifty dollars.

33 S 97. Subdivision (i-1) of section 121-1502 of the partnership law, as
34 added by chapter 448 of the laws of 1998, is amended to read as
35 follows:

36 (i-1) A certificate of change which changes only the post office
37 address to which the secretary of state shall mail a copy of any process
38 against a New York registered foreign limited liability partnership
39 served upon him or the address of the registered agent, provided such
40 address being changed is the address of a person, partnership, LIMITED
41 LIABILITY COMPANY or corporation whose address, as agent, is the address
42 to be changed or who has been designated as registered agent of such
43 registered foreign limited liability partnership shall be signed and
44 delivered to the department of state by such agent. The certificate of
45 change shall set forth: (i) the name of the New York registered foreign
46 limited liability partnership; (ii) the date of filing of its initial
47 registration or notice statement; (iii) each change effected thereby;
48 (iv) that a notice of the proposed change was mailed to the limited
49 liability partnership by the party signing the certificate not less than
50 thirty days prior to the date of delivery to the department of state and
51 that such limited liability partnership has not objected thereto; and
52 (v) that the party signing the certificate is the agent of such limited
53 liability partnership to whose address [the secretary of state] A PERSON
54 is required to mail [copies] A COPY of process SERVED ON THE SECRETARY
55 OF STATE or the registered agent, if such be the case. A certificate
56 signed and delivered under this subdivision shall not be deemed to

1 effect a change of location of the office of the limited liability part-
2 nership in whose behalf such certificate is filed. The certificate of
3 change shall be accompanied by a fee of five dollars.

4 S 98. Subdivision (a) of section 121-1505 of the partnership law is
5 REPEALED and three new subdivisions (a), (d) and (e) are added to read
6 as follows:

7 (A) (1) SERVICE OF PROCESS ON THE SECRETARY OF STATE AS AGENT OF A
8 REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
9 LIMITED LIABILITY PARTNERSHIP UNDER THIS ARTICLE SHALL BE MADE BY
10 PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE OR A
11 DEPUTY, OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE
12 SUCH SERVICE, AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF
13 ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE, WHICH
14 FEE SHALL BE A TAXABLE DISBURSEMENT. SUCH SERVICE SHALL BE SUFFICIENT IF
15 NOTICE OF SUCH SERVICE ON THE SECRETARY OF STATE AND A COPY OF THE PROC-
16 ESS ARE:

17 (I) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH REGIS-
18 TERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
19 LIMITED LIABILITY PARTNERSHIP BY A PERSON AND IN THE MANNER AUTHORIZED
20 TO SERVE PROCESS BY LAW OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

21 (II) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH REGISTERED LIMITED
22 LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
23 PARTNERSHIP BY CERTIFIED MAIL WITH RETURN RECEIPT REQUESTED, AT THE POST
24 OFFICE ADDRESS SPECIFIED FOR THE PURPOSE OF MAILING PROCESS, ON FILE IN
25 THE DEPARTMENT OF STATE.

26 (2) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY PERSONAL
27 SERVICE, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF COMPLIANCE WITH THIS
28 SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN THIRTY DAYS AFTER SUCH
29 SERVICE, WITH THE CLERK OF THE COURT IN WHICH THE ACTION OR SPECIAL
30 PROCEEDING IS PENDING. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
31 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT.

32 (3) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
33 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
34 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
35 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE REGISTERED
36 LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED
37 LIABILITY PARTNERSHIP, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE
38 ORIGINAL ENVELOPE MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORD-
39 ANCE WITH THIS SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF
40 COMPLIANCE EITHER THE RETURN RECEIPT SIGNED BY SUCH REGISTERED LIMITED
41 LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
42 PARTNERSHIP OR OTHER OFFICIAL PROOF OF DELIVERY OR, IF ACCEPTANCE WAS
43 REFUSED BY IT, THE ORIGINAL ENVELOPE WITH A NOTATION BY THE POSTAL
44 AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF ACCEPTANCE WAS REFUSED, A
45 COPY OF THE NOTICE AND PROCESS TOGETHER WITH NOTICE OF THE MAILING BY
46 CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE PROMPTLY SENT TO SUCH
47 REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
48 LIMITED LIABILITY PARTNERSHIP AT THE SAME ADDRESS BY ORDINARY MAIL AND
49 THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL BE
50 COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE
51 COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN
52 THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH
53 REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
54 LIMITED LIABILITY PARTNERSHIP REFUSING TO ACCEPT SUCH CERTIFIED MAIL
55 SHALL BE CHARGED WITH KNOWLEDGE OF THE CONTENTS THEREOF.

(D) THE DEPARTMENT OF STATE SHALL KEEP A RECORD OF EACH PROCESS SERVED UPON THE SECRETARY OF STATE UNDER THIS CHAPTER, INCLUDING THE DATE OF SUCH SERVICE. IT SHALL, UPON REQUEST MADE WITHIN TEN YEARS OF SUCH SERVICE, ISSUE A CERTIFICATE UNDER ITS SEAL CERTIFYING AS TO THE RECEIPT OF THE PROCESS BY AN AUTHORIZED PERSON, THE DATE AND PLACE OF SUCH SERVICE AND THE RECEIPT OF THE STATUTORY FEE. PROCESS SERVED UPON THE SECRETARY OF STATE UNDER THIS CHAPTER SHALL BE DESTROYED BY THE SECRETARY OF STATE AFTER A PERIOD OF TEN YEARS FROM SUCH SERVICE.

(E) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS AGENT OF A REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP SHALL BE DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THE STATE, TO WHICH A PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP AS REQUIRED BY THIS ARTICLE. ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE OR A PERSON SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS AGENT OF A REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY PARTNERSHIP SHALL CONTINUE UNTIL THE FILING OF A CERTIFICATE UNDER THIS CHAPTER DIRECTING THE MAILING TO A DIFFERENT POST OFFICE ADDRESS.

S 99. Subdivision (b) of section 121-1506 of the partnership law, as added by chapter 448 of the laws of 1998, paragraph 4 as amended by chapter 172 of the laws of 1999, is amended to read as follows:

(b) The party (or the party's legal representative) whose post OFFICE address has been supplied by a limited liability partnership as its address for process may resign. A certificate entitled "Certificate of Resignation for Receipt of Process under Section 121-1506(b) of the Partnership Law" shall be signed by such party and delivered to the department of state. It shall set forth:

(1) The name of the limited liability partnership and the date that its certificate of registration was filed by the department of state.

(2) That the address of the party has been designated by the limited liability partnership as the post office address to which [the secretary of state] A PERSON shall mail a copy of any process served on the secretary of state as agent for such limited liability partnership and that such party wishes to resign.

(3) That sixty days prior to the filing of the certificate of resignation with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the [designated] DESIGNATING limited liability partnership, if other than the party filing the certificate of resignation[,] for receipt of process, or if the [resigning] DESIGNATING limited liability partnership has no registered agent, then to the last address of the [designated] DESIGNATING limited liability partnership, known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited liability partnership the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited liability partnership, specifying what efforts were made.

(4) That the [designated] DESIGNATING limited liability partnership is required to deliver to the department of state a certificate of amendment providing for the designation by the limited liability partnership

1 of a new address and that upon its failure to file such certificate, its
2 authority to do business in this state shall be suspended.

3 S 100. Paragraph 16 of subdivision 1 of section 103 of the private
4 housing finance law, as added by chapter 22 of the laws of 1970, is
5 amended to read as follows:

6 (16) A designation of the secretary of state as agent of the corpo-
7 ration upon whom process against it may be served and the post office
8 address, within or without this state, to which [the secretary of state]
9 A PERSON shall mail a copy of any process against it served upon [him]
10 THE SECRETARY OF STATE.

11 S 101. Subdivision 2 of section 2-b of the religious corporations law
12 is REPEALED.

13 S 102. This act shall take effect on the ninetieth day after it shall
14 have become a law.

15 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
16 sion, section or part of this act shall be adjudged by any court of
17 competent jurisdiction to be invalid, such judgment shall not affect,
18 impair, or invalidate the remainder thereof, but shall be confined in
19 its operation to the clause, sentence, paragraph, subdivision, section
20 or part thereof directly involved in the controversy in which such judg-
21 ment shall have been rendered. It is hereby declared to be the intent of
22 the legislature that this act would have been enacted even if such
23 invalid provisions had not been included herein.

24 S 3. This act shall take effect immediately provided, however, that
25 the applicable effective date of Parts A through CC of this act shall be
26 as specifically set forth in the last section of such Parts.