

S T A T E O F N E W Y O R K

S. 6258--B

A. 9058--B

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 -- 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 -- again reported from said committee with amendments, 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 tran-

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

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sactions (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 (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); 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); and to amend the public authorities law and the real property law, in relation to the on-bill recovery mechanism for the "green jobs-green New York" program (Part DD)

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 DD. 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,

as amended, shall additionally make payments for reimbursement according to the following schedule:

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

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

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

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

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

S 2. Subdivision (f) of section 16 of 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, as added by section 2 of part A of chapter 60 of the laws of 2011, is amended to read as follows:

1 (f) For purposes of this section and section 10-c of the highway law,
2 for projects completed on or before March 31, [2012] 2013 local highway
3 and bridge projects may also include the following work types: (1)
4 microsurfacing, (2) paver placed surface treatment, (3) single course
5 surface treatment involving chip seals and oil and stone, and (4) double
6 course surface treatment involving chip seals and oil and stone, howev-
7 er, no reimbursement shall be made for (1) microsurfacing, (2) paver
8 placed surface treatment, (3) single course surface treatment involving
9 chip seals and oil and stone, and (4) double course surface treatment
10 involving chip seals and oil and stone after March 31, [2012] 2013.
11 Reimbursement for projects using these treatments may be made from the
12 proceeds of bonds, notes or other obligations issued by the New York
13 state thruway authority pursuant to section 380 of the public authori-
14 ties law or otherwise as determined by the director of the budget.

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

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

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

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

1 projects completed on or before March 31, [2012] 2013 where the project
2 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
3 course surface treatment involving chip seals and oil and stone and (4)
4 double course surface treatment involving chip seals and oil and stone,
5 and unless the director of the budget has certified to the chairman of
6 the thruway authority that a spending plan has been submitted by the
7 commissioner of transportation and has been approved by the director of
8 the budget. No reimbursement shall be made for (1) microsurfacing, (2)
9 paver placed surface treatment, (3) single course surface treatment
10 involving chip seals and oil and stone, and (4) double course surface
11 treatment involving chip seals and oil and stone after March 31, [2012]
12 2013.

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

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

38 S 6. Subdivision (b) of section 16-a of chapter 329 of the laws of
39 1991, amending the state finance law and other laws relating to the
40 establishment of the dedicated highway and bridge trust fund, as amended
41 by section 6 of part A of chapter 60 of the laws of 2011, is amended to
42 read as follows:

43 (b) Each county, city, town and village shall certify to the commis-
44 sioner of transportation that amounts to be reimbursed are for
45 construction, reconstruction or improvement of local highways, bridges
46 and/or highway-railroad crossings, including right of way acquisition,
47 preliminary engineering, and construction supervision and inspection
48 where the service life of the project is at least ten years or for
49 projects completed on or before March 31, [2012] 2013 where the project
50 is: (1) microsurfacing, (2) paver placed surface treatment, (3) single
51 course surface treatment involving chip seals and oil and stone and (4)
52 double course surface treatment involving chip seals and oil and stone.
53 No reimbursement shall be made for (1) microsurfacing, (2) paver placed
54 surface treatment, (3) single course surface treatment involving chip
55 seals and oil and stone, and (4) double course surface treatment involv-
56 ing chip seals and oil and stone after March 31, [2012] 2013. Such

1 certification shall include any such information as may be necessary to
2 maintain the federal tax exempt status of bonds, notes or other obli-
3 gations issued by the New York state thruway authority pursuant to
4 section 380 of the public authorities law. The commissioner shall in
5 writing request the municipalities to furnish such information as may be
6 necessary to comply with this section.

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

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

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

28 PART B

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

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

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

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

1 pursuant to section fifty-two, SECTION THREE HUNDRED TWENTY-SIX, and
2 subdivisions five, eight and twelve of section eighty-eight of the high-
3 way law, subdivision fifteen of section three hundred eighty-five of the
4 vehicle and traffic law, section two of the chapter of the laws of two
5 thousand three that amended this paragraph, subdivision (d) of section
6 three hundred four-a, paragraph one of subdivision (a) and subdivision
7 (d) of section three hundred five, subdivision six-a of section four
8 hundred fifteen and subdivision (g) of section twenty-one hundred twen-
9 ty-five of the vehicle and traffic law, section fifteen of this chapter,
10 excepting moneys deposited with the state on account of betterments
11 performed pursuant to subdivision twenty-seven or subdivision thirty-
12 five of section ten of the highway law, (iii) any moneys collected by
13 the department of transportation for services provided pursuant to
14 agreements entered into in accordance with section ninety-nine-r of the
15 general municipal law, and (iv) any other moneys collected therefor or
16 credited or transferred thereto from any other fund, account or source.
17 S 3. Paragraph (a) of subdivision 3 of section 89-b of the state
18 finance law, as amended by section 3 of chapter 165 of the laws of 2008,
19 is amended to read as follows:

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

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

47 PART C

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

50 3. No motor vehicle [carrying] DESIGNED TO CARRY passengers, as
51 described in subdivision two of this section, shall be operated within
52 the state unless it carries prominently displayed thereon the name of
53 the operator and certificate evidencing an inspection in accordance with
54 the rules and regulations of the commissioner [within a period of six

months last preceding]. The commissioner may, by order, rule or regulation, exempt from the requirements of this subdivision, vehicles which are not operated exclusively in transportation services for which inspection is required, provided that written evidence of the names otherwise subject to prominent display and such a certificate of inspection are at all times carried within such vehicles to be made available for examination upon proper demand, while the vehicles are operated in such service.

S 2. 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 D

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

1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide his or her social security number and provide space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. In addition, an applicant for a commercial driver's license shall submit a medical certificate at such intervals as 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 relating to medical certification and in a manner prescribed by the commissioner. For purposes of this section and sections five hundred three [and], five hundred ten-a, AND FIVE HUNDRED TEN-AA of this title, the [term] TERMS "medical certificate" AND "MEDICAL CERTIFICATION" shall mean a form substantially in compliance with the form set forth in Part 391.43(h) of title 49 of the code of federal regulations. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect to the application for such license, the commissioner shall revoke such license.

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

(b) An application for a license shall be valid for a period of time specified by regulation of the commissioner not to exceed five years. A learner's permit shall be valid from its issuance until the expiration of the application for a driver's license for which it was issued. Provided, however, that [if the medical certificate submitted in accordance with the requirements of the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal

1 regulations by an applicant for a commercial driver's license expires,
2 any] A learner's permit [that may have been] issued by the commissioner
3 in connection with [the] AN application FOR A COMMERCIAL DRIVER'S
4 LICENSE shall be [suspended] CANCELLED UPON: (I) THE EXPIRATION OF THE
5 HOLDER'S MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION
6 REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND
7 PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS; (II) THE
8 HOLDER'S FAILURE TO SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARI-
9 ANCE DOCUMENTATION WHEN REQUIRED TO DO SO BY THE COMMISSIONER; OR (III)
10 THE RECEIPT BY THE COMMISSIONER OF INFORMATION FROM THE ISSUING MEDICAL
11 EXAMINER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A
12 MEDICAL CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR.

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

15 S 4. The vehicle and traffic law is amended by adding a new section
16 510-aa to read as follows:

17 S 510-AA. DOWNGRADE OF COMMERCIAL DRIVER'S LICENSES. A COMMERCIAL
18 DRIVER'S LICENSE SHALL BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S
19 LICENSE BY THE COMMISSIONER UPON THE EXPIRATION OF THE HOLDER'S MEDICAL
20 CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION REQUIRED BY THE FEDERAL
21 MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE
22 49 OF THE CODE OF FEDERAL REGULATIONS, OR UPON THE HOLDER'S FAILURE TO
23 SUBMIT SUCH MEDICAL CERTIFICATION OR MEDICAL VARIANCE DOCUMENTATION WHEN
24 REQUIRED TO DO SO BY THE COMMISSIONER. A COMMERCIAL DRIVER'S LICENSE
25 SHALL ALSO BE DOWNGRADED TO A NON-COMMERCIAL DRIVER'S LICENSE BY THE
26 COMMISSIONER UPON RECEIPT OF INFORMATION FROM THE ISSUING MEDICAL EXAM-
27 INER OR THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION THAT A MEDICAL
28 CERTIFICATION OR MEDICAL VARIANCE WAS ISSUED IN ERROR. SUCH DOWNGRADE
29 SHALL BE TERMINATED, AND THE COMMERCIAL DRIVER'S LICENSE RESTORED, UPON:
30 (1) THE HOLDER'S SUBMISSION OF THE REQUIRED VALID MEDICAL EXAMINER'S
31 CERTIFICATE OR MEDICAL VARIANCE DOCUMENTATION; OR (2) THE HOLDER'S
32 SELF-CERTIFICATION SPECIFYING THE TYPE OF COMMERCIAL MOTOR VEHICLE OPER-
33 ATION HE OR SHE ENGAGES, OR EXPECTS TO ENGAGE IN, AND THAT THE HOLDER IS
34 THEREFORE NOT SUBJECT TO THE PHYSICAL QUALIFICATION REQUIREMENTS OF THE
35 FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H)
36 OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

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

39 7-A. NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE UNLESS
40 MEDICALLY CERTIFIED IN ACCORDANCE WITH THE FEDERAL MOTOR CARRIER SAFETY
41 IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF
42 FEDERAL REGULATIONS.

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

50

PART E

51 Section 1. Subdivision 12 of section 1269 of the public authorities
52 law, as amended by section 1 of part NN of chapter 59 of the laws of
53 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-nine-b of this [article] TITLE for the period nineteen hundred ninety-two through two thousand fourteen shall not exceed [thirty-four] FORTY-ONE billion eight hundred seventy-seven million dollars. Such aggregate principal amount of bonds, notes or other obligations or the expenditure thereof shall not be subject to any limitation contained in any other provision of law on the principal amount of bonds, notes or other obligations or the expenditure thereof applicable to the authority, the Triborough bridge and tunnel authority or the New York city transit authority. The aggregate limitation established by this subdivision shall not include (i) obligations issued to refund, redeem or otherwise repay, including by purchase or tender, obligations theretofore issued either by the issuer of such refunding obligations or by the authority, the New York city transit authority or the Triborough bridge and tunnel authority, (ii) obligations issued to fund any debt service or other reserve funds for such obligations, (iii) obligations issued or incurred to fund the costs of issuance, the payment of amounts required under bond and note facilities, federal or other governmental loans, security or credit arrangements or other agreements related thereto and the payment of other financing and related costs associated with such obligations, (iv) an amount equal to any original issue discount from the principal amount of such obligations or to fund capitalized interest, (v) obligations incurred pursuant to section twelve hundred seven-m of this article, (vi) obligations incurred to fund the acquisition of certain buses for the New York city transit authority as identified in a capital program plan approved pursuant to chapter fifty-three of the laws of nineteen hundred ninety-two, (vii) obligations incurred in connection with the leasing, selling or transferring of equipment, and (viii) bond anticipation notes or other obligations payable solely from the proceeds of other bonds, notes or other obligations which would be included in the aggregate principal amount specified in the first sentence of this subdivision, whether or not additionally secured by revenues of the authority, or any of its subsidiary corporations, New York city transit authority, or any of its subsidiary corporations, or Triborough bridge and tunnel authority.

S 2. This act shall take effect immediately.

PART F

Section 1. Section 205 of the vehicle and traffic law is amended by adding a new subdivision 3-a to read as follows:

3-A. IN ADDITION TO THE FEES RETAINED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, EACH COUNTY CLERK ACTING AS THE AGENT OF THE COMMISSIONER PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL RETAIN FOUR PERCENT OF "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" COLLECTED BY THE COMMISSIONER. FOR THE PURPOSES OF THIS SUBDIVISION, "ENHANCED INTERNET AND ELECTRONIC PARTNER REVENUE" SHALL MEAN THE AMOUNT OF GROSS RECEIPTS ATTRIBUTABLE TO ALL TRANSACTIONS CONDUCTED ON THE INTERNET BY RESIDENTS OF SUCH COUNTY AND BY DESIGNATED PARTNERS OF THE DEPARTMENT ON BEHALF OF SUCH RESIDENTS FOR THE CURRENT CALENDAR YEAR THAT EXCEEDS THE AMOUNT OF SUCH REVENUE COLLECTED BY THE COMMISSIONER DURING CALENDAR YEAR TWO THOUSAND ELEVEN. THE COMMISSIONER SHALL CERTIFY THE AMOUNTS TO BE

1 RETAINED BY EACH COUNTY CLERK PURSUANT TO THIS SUBDIVISION. PROVIDED,
2 HOWEVER, THAT IF THE AGGREGATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS
3 PURSUANT TO THIS SUBDIVISION IN CALENDAR YEARS TWO THOUSAND TWELVE AND
4 TWO THOUSAND THIRTEEN COMBINED EXCEEDS EIGHTY-EIGHT MILLION FIVE HUNDRED
5 THOUSAND DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER
6 SHALL BE REDUCED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED
7 DURING CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
8 COMBINED, WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT
9 MILLION FIVE HUNDRED THOUSAND DOLLARS OR 2.5 PERCENT OF ENHANCED INTER-
10 NET AND ELECTRONIC PARTNER REVENUE, WHICHEVER IS HIGHER. IF THE AGGRE-
11 GATE AMOUNT OF FEES RETAINED BY COUNTY CLERKS PURSUANT TO THIS SUBDIVI-
12 SION IN CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN
13 COMBINED IS LESS THAN EIGHTY-EIGHT MILLION FIVE HUNDRED THOUSAND
14 DOLLARS, THEN THE PERCENTAGE OF FEES TO BE RETAINED THEREAFTER SHALL BE
15 INCREASED TO A PERCENTAGE THAT, IF APPLIED TO THE FEES COLLECTED DURING
16 CALENDAR YEARS TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN COMBINED,
17 WOULD HAVE RESULTED IN AN AGGREGATE RETENTION OF EIGHTY-EIGHT MILLION
18 FIVE HUNDRED THOUSAND DOLLARS, OR SIX PERCENT OF ENHANCED INTERNET AND
19 ELECTRONIC PARTNER REVENUE, WHICHEVER IS LESS. ON AND AFTER APRIL FIRST,
20 TWO THOUSAND SIXTEEN, THE PERCENT OF ENHANCED INTERNET AND ELECTRONIC
21 PARTNER REVENUE TO BE RETAINED BY COUNTY CLERKS SHALL BE THE AVERAGE OF
22 THE ANNUAL PERCENTAGES THAT WERE IN EFFECT BETWEEN APRIL FIRST, TWO
23 THOUSAND TWELVE AND MARCH THIRTY-FIRST, TWO THOUSAND SIXTEEN.
24 S 2. This act shall take effect April 1, 2012.

25

PART G

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

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

35 S 2. Subparagraph (ii) of paragraph a of subdivision 2 of section 140
36 of the transportation law, as amended by chapter 602 of the laws of
37 1985, is amended to read as follows:

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

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

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

1 c.] The department shall have the power to examine vehicles, facilities and records subject to the provisions of this subdivision, at any time and place where they are found, to ascertain whether such rules and regulations are being obeyed. The rules and regulations of the commissioner shall provide for the inspection of all such vehicles, FACILITIES AND RECORDS SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION, at such periods and at such manner as the commissioner may direct, and, when adopted, shall have the full force and effect of law.

9 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:

13 (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.

21 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:

25 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.

41 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 certif-

icate 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.

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

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

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

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

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

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

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

S 212. Records. [a.] Every driver of a motor truck or motor bus shall keep and carry on the vehicle records showing the day and hour when and the place where he went and was released from duty, whether in this state or outside of this state. The commissioner shall prescribe the form of such records and may require such other information to be shown thereon as he shall deem advisable to insure the proper enforcement of

1 this article. Such records shall be exhibited to the commissioner, his
2 representatives, or to any peace officer, acting pursuant to his special
3 duties or police officer who shall demand to see the same and shall be
4 held available for further inspection for a period of sixty days within
5 the state of New York in an office designated by the owner. Failure to
6 produce such records upon demand shall be presumptive evidence of a
7 violation of this article relating to keeping such records. In any pros-
8 ecution for the violation of any of the provisions of this article such
9 records shall be prima facie evidence of the truth of the contents ther-
10 eof.

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

18 S 9. Section 214 of the transportation law, as added by chapter 342 of
19 the laws of 1974, subdivision b as amended by chapter 367 of the laws of
20 1983 and subdivision d as amended by chapter 302 of the laws of 2005, is
21 amended to read as follows:

22 S 214. Exemptions. [a. The provisions of this article shall not apply
23 in case of accident or act of God, nor when there is delay which was
24 caused by the elements, or a cause not known to the driver or owner or
25 to his or its officers in charge of such operations at the time that
26 such driver left the place where he last went on duty prior to such
27 delays.

28 b. The requirement in this article that every driver of a motor truck
29 or motor bus shall keep and carry on the vehicle records showing the day
30 and hour when, and the place where he went or was released from duty,
31 shall not apply to any driver who drives wholly within a radius of one
32 hundred miles of the garage or terminal at which he reports for work,
33 provided, however, that such records shall be kept at his place of
34 employment.

35 c.] The provisions of this article shall not apply to the [operation
36 of a motor truck or motor bus while being operated exclusively in a city
37 and/or incorporated village, nor to the] operation of a motor truck IN
38 INTRASTATE COMMERCE owned by a farmer and operated by himself or an
39 employee when used in the hauling of farm, dairy, or horticultural
40 products and farm supplies for himself or his farm neighbors to market,
41 creamery, or place of storage[, nor to the operation of wrecking and
42 towing cars, nor to the operation of federal military vehicles, by
43 members of the army or air national guard, or by federally paid employ-
44 ees of the army or air national guard.

45 d. The provisions of this article shall not apply nor shall hours of
46 service accrue to incidental drivers engaged in the actual restoration
47 or preservation of electric, water, telephone, gas or steam service
48 during an emergency. For a corporation providing electric, water, tele-
49 phone, gas or steam service to avail itself of the exemption provided by
50 this subdivision such electric, water, telephone, gas or steam corpo-
51 ration shall have filed with the department a plan setting forth the
52 procedures such corporation shall follow in emergencies to assure that
53 no incidental driver shall drive if such driver has not had sufficient
54 rest necessary to maintain his or her ability to safely drive. The
55 exemption provided by this subdivision shall not apply to an incidental
56 driver unless such incidental driver is engaged in the actual restora-

tion or preservation of electric, water, telephone, gas or steam service during an emergency or such incidental driver shall have had a period of rest consisting of at least eight consecutive hours off duty immediately upon the conclusion of such incidental driver's engagement in the actual restoration or preservation of electric, water, telephone, gas or steam service during the emergency. If an emergency extends for more than twenty-four hours, the electric, water, telephone, gas or steam corporation availing itself of the terms of this subdivision shall notify the department, in writing, that an emergency exists and the expected duration of the emergency. For the purposes of this subdivision, the following terms shall have the following meanings:

(1) "Emergency" is hereby declared to be any unplanned power outage, interruption of service or the imminent risk of such outage or interruption of service to electric, water, telephone, gas or steam service or to transmission or distribution lines, pipes or other related facilities or any circumstance under which the public safety is at risk;

(2) "Incidental driver" means an employee, contractor or contractor's employee of an electric, water, telephone, gas or steam corporation whose primary employment by, or contractual agreement with, such corporation is not as a driver of a motor vehicle but who drives only as an incidental part of his or her employment or contractual agreement; and

(3) "Interruption of service" shall mean a loss of service for a period of time defined in regulation by the department of public service for electric service (as set forth in paragraph (a) of section 97.1 of title sixteen of the official compilation of codes, rules and regulations of the state of New York) and shall, for purposes of this section, apply to electric, water, telephone, natural gas and steam service].

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 irri-

tating 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 friction, 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;

1 (iii) using the bureau of explosives, association of American rail-
2 roads open drum apparatus, there is any significant propagation of flame
3 away from the ignition source;

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

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

16 Such rules and regulations shall be no less protective of public safe-
17 ty than the rules and regulations promulgated by the federal government
18 with respect to the transportation of hazardous materials. The regu-
19 lations shall set forth the criteria for identifying and listing, and a
20 list of hazardous materials subject to this section as may be amended by
21 the commissioner of transportation from time to time in a manner
22 consistent with the state administrative procedure act and consistent
23 with this section. Such regulations shall include specifications for
24 marking and placarding of vehicles transporting hazardous materials as
25 will be applied pursuant to paragraph (a) of subdivision three of this
26 section. The regulations promulgated hereunder shall include notice that
27 a violation of the rules and regulations is subject to a fine or a peri-
28 od of imprisonment, and the rules and regulations shall set forth the
29 penalty provisions contained in subdivision four of this section.
30 Provided, however, that all local laws or ordinances, except those of
31 cities having a population of one million or more, regulating the trans-
32 portation of flammable liquids in trucks, trailers or semi-trailers, are
33 hereby superseded and without force and hereafter no such local law or
34 ordinance shall be adopted to regulate or control the equipment or means
35 of transporting flammable liquids in trucks, trailers or semi-trailers.

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

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

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

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

55 1-a. The department of transportation is hereby designated the offi-
56 cial state agency to receive all notifications from the [federal inter-

1 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or
2 any other federal or state agency in regard to discontinuance of service
3 or railroad property abandonment proceedings, including notification of
4 applications from railroad companies for any such purposes.

5 1-b. The department of transportation shall promptly inform in writing
6 all interested state agencies, transportation authorities, and every
7 county, city, town and village in which such property is located and the
8 appropriate entity designated by the governor pursuant to title IV of
9 the federal intergovernmental cooperation act of nineteen hundred
10 sixty-eight and the federal office of management and budget circular
11 A-98 of (a) the issuance of any certificate from the [federal interstate
12 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION or other
13 federal or state agency authorizing discontinuance of railroad service
14 or abandonment of railroad transportation property, (b) approval of
15 discontinuance of service or a determination of abandonment of railroad
16 transportation property pursuant to this section, and (c) the receipt of
17 an application to release a preferential acquisition right to railroad
18 transportation property pursuant to this section.

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

1 provisions of this section as then applicable, except when the subse-
2 quent sale involves property previously exempted from this section by
3 the commissioner.

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

6 S 98. Tariff schedules; publication. Every common carrier shall file
7 with the commissioner and shall print and keep open to public inspection
8 schedules showing the rates, fares and charges for the transportation of
9 passengers and property within the state between each point upon its
10 route and all other points thereon; and between each point upon its
11 route and all points upon every route leased, operated or controlled by
12 it; and between each point on its route or upon any route leased, oper-
13 ated or controlled by it and all points upon the route of any other
14 common carrier, whenever a through route and joint rate shall have been
15 established or ordered between any two such points. If no joint rate
16 over a through route has been established, the several carriers in such
17 through route shall file, print and keep open to public inspection, as
18 aforesaid, the separately established rates, fares and charges applied
19 to the through transportation. The schedules printed as aforesaid shall
20 plainly state the places between which property and passengers will be
21 carried, and shall also contain the classification of passengers or
22 property in force, and shall also state separately all terminal charges,
23 storage charges, icing charges, and all other charges which the commis-
24 sioner may require to be stated, all privileges or facilities granted or
25 allowed, and any rules or regulations which may in anywise change,
26 affect or determine any part, or the aggregate of, such aforesaid rates,
27 fares and charges, or the value of the service rendered to the passen-
28 ger, shipper or consignee. Such schedules shall be plainly printed in
29 large type, and a copy thereof shall be kept by every such carrier read-
30 ily accessible to and for convenient inspection by the public in every
31 station or office of such carrier where passengers or property are
32 respectively received for transportation, when such station or office is
33 in charge of an agent, and in every station or office of such carrier
34 where passenger tickets for transportation or tickets covering sleeping
35 or parlor car or other train accommodation are sold or bills of lading
36 or receipts for property are issued. All or any of such schedules kept
37 as aforesaid shall be immediately produced by such carrier for
38 inspection upon the demand of any person. A notice printed in bold type
39 and stating that such schedules are on file with the agent and open to
40 inspection by any person and that the agent will assist any such person
41 to determine from such schedules any transportation rates or fares or
42 rules or regulations which are in force shall be kept posted by the
43 carrier in two public and conspicuous places in every such station or
44 office. The form of every such schedule shall be prescribed by the
45 commissioner and shall conform in the case of railroad company as nearly
46 as may be to the form of schedule required by the [interstate commerce
47 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under the act of
48 congress entitled "An act to regulate commerce," approved February
49 fourth, eighteen hundred and eighty-seven and the acts amendatory there-
50 of and supplementary thereto. The commissioner shall have power, from
51 time to time, in his discretion, to determine and prescribe by order
52 such changes in the form of such schedules as may be found expedient,
53 and to modify the requirements of this section in respect to publishing,
54 posting and filing of schedules either in particular instances or by
55 general order applicable to special or peculiar circumstances or condi-
56 tions.

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

3 S 126. Uniform system of accounts; access to accounts; forfeitures.
4 The commissioner may, whenever he deems advisable, establish a system of
5 accounts to be used by common carriers which are subject to his super-
6 vision, or may classify the said carriers and prescribe a system of
7 accounts for each class, and may prescribe the manner in which such
8 accounts shall be kept. He may also in his discretion prescribe the
9 forms of accounts, records and memoranda to be kept by such carriers,
10 including the accounts, records and memoranda of the movement of traffic
11 as well as the receipts and expenditures of moneys. Notice of alter-
12 ations by the commissioner in the required method or form of keeping a
13 system of accounts shall be given to such persons or carriers by the
14 commissioner at least six months before the same are to take effect. The
15 system of accounts established by the commissioner and the forms of
16 accounts, records and memoranda prescribed by him as provided above
17 shall conform in the case of railroad companies as nearly as may be to
18 those from time to time established and prescribed by the [interstate
19 commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION under
20 the provisions of the act of congress entitled "An act to regulate
21 commerce" approved February fourth, eighteen hundred eighty-seven, and
22 the acts amendatory thereof or supplementary thereto. The commissioner
23 shall at all times have access to all accounts, records and memoranda
24 kept by common carriers and may designate any officers or employees of
25 the department who shall thereupon have authority under the order of the
26 commissioner to inspect and examine any and all accounts, records and
27 memoranda kept by such carriers. The commissioner may, after hearing,
28 prescribe by order the accounts in which particular outlays and receipts
29 shall be entered, charged or credited. At any such hearing the burden of
30 proof shall be on the common carrier to establish the correctness of the
31 accounts in which such outlays and receipts have been entered, and the
32 commissioner may suspend a charge or credit pending submission of proof
33 by such carrier. Where the commissioner has prescribed the forms of
34 accounts, records and memoranda to be kept by such carriers it shall be
35 unlawful for them to keep any other accounts, records or memoranda than
36 those so prescribed, or those prescribed by or under authority of the
37 United States.

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

40 S 134. Duties of commissioner as to interstate traffic. The commis-
41 sioner may investigate interstate freight or passenger rates or inter-
42 state freight or passenger service on railroads within the state, and
43 when such rates are, in the opinion of the commissioner, excessive or
44 discriminatory or are levied or laid in violation of the act of congress
45 entitled "An act to regulate commerce," approved February fourth, eigh-
46 teen hundred and eighty-seven, and the acts amendatory thereof and
47 supplementary thereto, or in conflict with the rulings, orders or regu-
48 lations of the [interstate commerce commission] UNITED STATES DEPARTMENT
49 OF TRANSPORTATION, the commissioner may apply by petition to the [inter-
50 state commerce commission] UNITED STATES DEPARTMENT OF TRANSPORTATION
51 for relief or may present to the [interstate commerce commission] UNITED
52 STATES DEPARTMENT OF TRANSPORTATION all facts coming to his knowledge,
53 as to violations of the rulings, orders, or regulations of that commis-
54 sion or as to violations of the said act to regulate commerce or acts
55 amendatory thereof or supplementary thereto.

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

5 The level of railroad participation in the program for the period
6 nineteen hundred eighty-seven through nineteen hundred ninety-one shall
7 depend on the estimated tax abatement as computed by the commissioner of
8 taxation and finance pursuant to either subdivision (c) of section four
9 hundred eighty-nine-j or subdivision (c) of section four hundred eight-
10 y-nine-hh of the real property tax law. The nature of railroad partic-
11 ipation in the program, as set forth below, shall be based on the rail-
12 road's economic or exemption factor under title two-A and title two-B of
13 article four of the real property tax law, as applicable, and the rail-
14 road's size classification as determined by the [interstate commerce
15 commission] UNITED STATES DEPARTMENT OF TRANSPORTATION, based on rail-
16 road system gross revenues. Regardless of the level of their partic-
17 ipation, all railroads shall annually certify to the commissioner that
18 to the best of their knowledge and belief such railroads are in substan-
19 tial compliance with the terms and conditions of any contracts they may
20 have with the department.

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

24 Notwithstanding any other provision of law, where the trial of a traf-
25 fic or parking infraction is authorized or required to be tried before
26 the Nassau county district court, and such traffic and parking infrac-
27 tion does not constitute a misdemeanor, felony, violation of subdivision
28 one of section eleven hundred ninety-two, subdivision five of section
29 eleven hundred ninety-two, section three hundred ninety-seven-a, or
30 subdivision (g) of section eleven hundred eighty of this chapter, or a
31 violation of paragraph (b) of subdivision four of section fourteen-f or
32 clause (b) of subparagraph (iii) of paragraph [d] C of subdivision two
33 of section one hundred forty of the transportation law, or any offense
34 that is part of the same criminal transaction, as that term is defined
35 in subdivision two of section 40.10 of the criminal procedure law, as
36 such a misdemeanor, felony, violation of subdivision one of section
37 eleven hundred ninety-two, subdivision two of section eleven hundred
38 ninety-two, section three hundred ninety-seven-a or subdivision (g) of
39 section eleven hundred eighty of this chapter, or a violation of para-
40 graph (b) of subdivision four of section fourteen-f or clause (b) of
41 subparagraph (iii) of paragraph d of subdivision two of section one
42 hundred forty of the transportation law, the administrative judge of the
43 county in which the trial court is located, may assign judicial hearing
44 officers to conduct such a trial. Such judicial hearing officers shall
45 be village court justices or retired judges either of which shall have
46 at least two years of experience conducting trials of traffic and park-
47 ing violations cases and shall be admitted to practice law in this
48 state. Where such assignment is made, the judicial hearing officer shall
49 entertain the case in the same manner as a court and shall:

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

53 2. The Nassau county traffic and parking violations agency, as estab-
54 lished, may be authorized to assist the Nassau county district court in
55 the disposition and administration of infractions of traffic and parking
56 laws, ordinances, rules and regulations and the liability of owners for

1 violations of subdivision (d) of section eleven hundred eleven of the
2 vehicle and traffic law in accordance with section eleven hundred
3 eleven-b of such law, except that such agency shall not have jurisdic-
4 tion over (a) the traffic infraction defined under subdivision one of
5 section eleven hundred ninety-two of the vehicle and traffic law; (b)
6 the traffic infraction defined under subdivision five of section eleven
7 hundred ninety-two of the vehicle and traffic law; (c) the violation
8 defined under paragraph (b) of subdivision four of section fourteen-f of
9 the transportation law and the violation defined under clause (b) of
10 subparagraph (iii) of paragraph [d] C of subdivision two of section one
11 hundred forty of the transportation law; (d) the traffic infraction
12 defined under section three hundred ninety-seven-a of the vehicle and
13 traffic law and the traffic infraction defined under subdivision (g) of
14 section eleven hundred eighty of the vehicle and traffic law; (e) any
15 misdemeanor or felony; or (f) any offense that is part of the same crim-
16 inal transaction, as that term is defined in subdivision two of section
17 40.10 of the criminal procedure law, as a violation of subdivision one
18 of section eleven hundred ninety-two of the vehicle and traffic law, a
19 violation of subdivision five of section eleven hundred ninety-two of
20 the vehicle and traffic law, a violation of paragraph (b) of subdivision
21 four of section fourteen-f of the transportation law, a violation of
22 clause (b) of subparagraph (iii) of paragraph d of subdivision two of
23 section one hundred forty of the transportation law, a violation of
24 section three hundred ninety-seven-a of the vehicle and traffic law, a
25 violation of subdivision (g) of section eleven hundred eighty of the
26 vehicle and traffic law or any misdemeanor or felony.

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

30 1. Notwithstanding any other provision of law to the contrary, any
31 person who is, by professional training or experience and attainment,
32 qualified to analyze and interpret matters pertaining to the treatment,
33 storage, disposal, or transport of hazardous materials or hazardous
34 wastes, and who voluntarily and without expectation of monetary compen-
35 sation provides assistance or advice in mitigating the effects of an
36 accidental or threatened discharge of any hazardous materials or hazard-
37 ous wastes, or in preventing, cleaning up, or disposing of any such
38 discharge, shall not be subject to a penalty or to civil liability for
39 damages or injuries alleged to have been sustained by any person or
40 entity by reason of an act or omission in the giving of such assistance
41 or advice. For the purposes of this section, the term "hazardous materi-
42 als" shall have the same meaning [given] AS that term [in subdivision
43 one of] IS DEFINED IN REGULATIONS PROMULGATED BY THE COMMISSIONER OF
44 TRANSPORTATION PURSUANT TO section fourteen-f of the transportation law,
45 and the term "hazardous wastes" shall mean those wastes identified or
46 listed pursuant to section 27-0903 of this article and any rules and
47 regulations promulgated thereunder.

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

51 1. The state fire administrator shall[, in his or her discretion,
52 consult with the fire fighting and code enforcement personnel standards
53 and education commission established pursuant to section one hundred
54 fifty-nine-a of this article, to] establish a specialized hazardous
55 materials emergency response training program for individuals responsi-
56 ble for providing emergency response recovery following incidents

1 involving hazardous materials as SUCH TERM IS defined in [accordance
2 with] REGULATIONS PROMULGATED BY THE COMMISSIONER OF TRANSPORTATION
3 PURSUANT TO section fourteen-f of the transportation law. The state fire
4 administrator shall inform all fire companies, municipal corporations
5 and districts, including agencies and departments thereof and all fire-
6 fighters, both paid and volunteer, and related officers and employees
7 and police officers of the implementation and availability of the
8 hazardous materials emergency response training program and shall,
9 subject to the availability of an appropriation, conduct such training
10 with sufficient frequency to assure adequate response to incidents
11 involving hazardous materials and protection of responders in all
12 geographic areas of the state.

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

17

PART H

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

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

33 2. The department may also issue a license revocable at its pleasure
34 to possess and sell protected fish, wildlife, shellfish, crustacea or
35 aquatic insects for propagation, scientific or exhibition purposes. The
36 department in its discretion may require a license fee of ten dollars.
37 Such license shall be in force for one year only and shall not be trans-
38 ferable. Each licensee shall [make] FILE WITH THE DEPARTMENT a report
39 [of his or her operations at the expiration of the license] CONTAINING
40 SUCH INFORMATION AS THE DEPARTMENT MAY REQUIRE. Fish, wildlife, shellf-
41 ish, crustacea or aquatic insects lawfully possessed under this section
42 may be sold at any time by the licensee for propagation, scientific or
43 exhibition purposes only.

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

47 1. The department may direct any environmental conservation officer,
48 or issue a permit to any person, to take any wildlife at any time when-
49 ever it becomes a nuisance, destructive to public or private property or
50 a threat to public health or welfare, provided, however, that where such
51 wildlife is a bear, no such permit shall be issued except upon proof of
52 damage to such property or threat to public health or safety presented
53 to the department. Upon presentation of such proof, the department may
54 issue a permit authorizing the use of trained tracking dogs pursuant to

1 section 11-0928 of this article, and, if the department has determined
2 that no other alternative is feasible, a separate permit to take the
3 bear. Wildlife so taken shall be disposed of as the department may
4 direct. ANY PERSON, AGENCY, CORPORATION OR MUNICIPALITY WHO OBTAINS A
5 MIGRATORY BIRD DEPREDATION PERMIT OR ORDER ISSUED BY THE FEDERAL DEPART-
6 MENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 13 AND 50 C.F.R. 21, AS MAY
7 BE AMENDED FROM TIME TO TIME, SHALL NOT BE REQUIRED TO OBTAIN A PERMIT
8 FROM THE DEPARTMENT TO CONDUCT THE AUTHORIZED ACTIVITIES.

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

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

16 9. Varying hares, cottontail rabbits, skunks, black, grey and fox
17 squirrels, raccoons, MUSKRATS, opossums or weasels taken pursuant to
18 this section in the closed season or in a manner not permitted by
19 section 11-0901 shall be immediately buried or cremated. No person shall
20 possess or traffic in such skunks or raccoons or the pelts thereof or in
21 such varying hares or cottontail rabbits or the flesh thereof.

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

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

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

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

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

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

45 2. No firearm or crossbow except a pistol or revolver shall be carried
46 or possessed in or on a motor vehicle unless it is unloaded, for a
47 firearm in both the chamber and the magazine, except that a loaded
48 firearm which may be legally used for taking migratory game birds may be
49 carried or possessed in a motorboat while being legally used in hunting
50 migratory game birds, and no person except a law enforcement officer in
51 the performance of his official duties shall, while in or on a motor
52 vehicle, use a jacklight, spotlight or other artificial light upon lands
53 inhabited by deer if he is in possession or is accompanied by a person
54 who is in possession, at the time of such use, of a longbow, crossbow or
55 a firearm of any kind except a pistol or revolver, unless such longbow
56 is unstrung or such firearm or crossbow is taken down or securely

1 fastened in a case or locked in the trunk of the vehicle. For purposes
2 of this subdivision, motor vehicle shall mean every vehicle or other
3 device operated by any power other than muscle power, and which shall
4 include but not be limited to automobiles, trucks, motorcycles, trac-
5 tors, trailers and motorboats, snowmobiles and snowtravelers, whether
6 operated on or off public highways. Notwithstanding the provisions of
7 this subdivision, the department may issue a permit to any person who is
8 non-ambulatory, except with the use of a mechanized aid, to possess a
9 loaded firearm in or on a motor vehicle as defined in this section,
10 subject to such restrictions as the department may deem necessary in the
11 interest of public safety[, and for a fee of five dollars]. Nothing in
12 this section permits the possession of a pistol or a revolver contrary
13 to the penal law.

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

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

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

44 S 11-1003. Falconry license.

45 Any resident of this state may be issued a falconry license. The
46 department shall prescribe and furnish forms for application for such
47 license. The fee for the license shall be [twenty] FORTY dollars.
48 Falconry licenses shall expire on December 31 every [second] FIFTH year
49 and shall be renewable at the discretion of the department. A falconry
50 license shall authorize the licensee to obtain, buy, sell, barter,
51 possess and train raptors for falconry and to engage in falconry,
52 provided that no game shall be taken or killed except during an open
53 season therefor, and further provided that such licensee shall also
54 possess a license pursuant to this chapter which authorizes the holder
55 to hunt wildlife. Any non-resident, who legally possesses a raptor
56 where he or she resides and who may legally engage in falconry where he

1 or she resides, may engage in falconry in New York without a falconry
2 license provided he or she possesses a valid non-resident hunting
3 license.

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

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

8 1. The provisions of this section apply to carcasses and parts thereof
9 of

10 a. domestic game killed on the premises of the holder of a domestic
11 game bird breeder's license PURSUANT TO SECTION 11-1901 OF THIS ARTICLE,
12 domestic game animal breeder's license PURSUANT TO SECTION 11-1905 OF
13 THIS ARTICLE or shooting preserve license PURSUANT TO SECTION 11-1903 OF
14 THIS ARTICLE;

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

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

18 d. wild deer (other than white-tailed deer), moose, elk, caribou and
19 antelope, coming from outside the state, imported pursuant to section
20 11-1711;

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

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

28 2. All such [game] CARCASSES AND PARTS shall be [tagged] IDENTIFIED
29 with a [tag or seal, which shall be supplied] FORM PROVIDED by the
30 department [for a fee of five cents for each tag or seal. The tag or
31 seal shall be affixed to each game bird, and in the case of foreign game
32 shall be affixed to the breast skin, and to the flesh of each quarter
33 and loin of other game, and shall remain so affixed until the game is
34 finally prepared for consumption. Trout, black bass, lake trout, land-
35 locked salmon, muskellunge, pike, pickerel and walleye taken from fish-
36 ing preserve waters licensed pursuant to section 11-1913 shall be tagged
37 as prescribed by the department, with a seal, which shall be supplied by
38 the department for a fee of five cents for each seal].

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

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

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

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

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

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

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

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

11 S 11-1725. Shipment by carriers.

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

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

25 b. If the consignor is the person who holds the game breeder's license
26 or shooting preserve license[, or the certificate under section 11-1715,
27 or the permit under section 11-1711 or 11-1713,] by authority of which
28 such game (other than imported foreign game) is saleable, or if the game
29 is imported foreign game shipped by a licensed game dealer, the card or
30 label shall also state the name and address of the holder of such
31 license, [certificate or permit] and the number of the license[, certif-
32 icate or permit].

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

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

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

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

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

6 5. Each such domestic duck, goose, brant and swan [before attaining
7 the age of four weeks] shall be marked [by having the hind toe of the
8 right foot removed, and no such duck, goose, brant or swan, over four
9 weeks of age, may be possessed or sold without such mark] IN ACCORDANCE
10 WITH REQUIREMENTS SET FORTH IN RULES AND REGULATIONS ESTABLISHED BY THE
11 DEPARTMENT OF THE INTERIOR PURSUANT TO 50 C.F.R. 21 AS MAY BE AMENDED
12 FROM TIME TO TIME. Birds so marked, which have escaped, may be recap-
13 tured by the licensee. [Other such domestic game birds which have
14 escaped may be recaptured by the licensee provided they are marked as
15 prescribed in the rules and regulations of the department.] Escaped
16 birds may be recaptured only on the premises of the licensee. [However,
17 removal of the hind toe of the right foot shall not be required for
18 captive geese, brant and swans, which were adult birds on March 1, 1967
19 and previously had been marked with a V-shaped mark on the web of one
20 foot.]

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

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

36 c. The licensee shall keep records of the number of tags used, and no
37 tags shall be removed from the licensed premises except as provided in
38 this subdivision. If a game bird breeder's license is not renewed on its
39 expiration date, all unused tags and inventory shall be returned to the
40 nearest regional office of the department not later than ten days after
41 the expiration date of the license. There shall be no refund of money
42 for such returned 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, bought, sold, offered for sale and transported, to the extent
47 permitted by sections 11-1719 and 11-1723.] DOMESTIC GAME BIRD CARCASSES
48 AND PARTS SHALL BE IDENTIFIED AS REQUIRED BY SECTION 11-1721 OF THIS
49 ARTICLE.

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

1 1. The department may, in its discretion, issue to an owner or lessee
2 of wholly enclosed lands or an entire island a shooting preserve license
3 permitting him OR HER to purchase, possess, rear and transport, and to
4 release and take by shooting therein, domestic game birds legally
5 possessed or acquired. No birds may be held for propagation after [March
6 31] APRIL 15 unless the owner or lessee also has a domestic game bird
7 breeder's license as provided for in section 11-1901. In the case of
8 leased lands, the applicant shall furnish with his OR HER application
9 evidence of a written lease executed by each lessor covering the prem-
10 ises to be licensed. The license shall expire on [March 31 in each]
11 APRIL 15 EVERY FIFTH year. The department shall prescribe and furnish
12 forms for application for such license. Applicants shall pay, and the
13 department shall be entitled to receive, fees according to the type of
14 license issued as follows:

15 a. Class A license, [fifty] TWO HUNDRED dollars [for the first one
16 hundred acres and five 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 commercial CLUB
19 OR MEMBERSHIP shooting preserve WITH A MINIMUM OF ONE HUNDRED ACRES and
20 charge a daily fee for hunting or charge a fee for each bird killed or a
21 combination thereof. Birds may be killed by the licensee for his OR HER
22 own use and may be sold dead or alive.

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

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

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

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

52 a. Birds [must be at least fourteen weeks of age before liberation.
53 Ducks, geese, brant and swans] shall be marked [by having had the hind
54 toe of the right foot removed, except] as provided in subdivision 5 of
55 section 11-1901[, and no such duck, goose, brant or swan, over four
56 weeks of age, may be possessed, sold or killed by shooting without such

mark]. Birds so marked, which have escaped, may be recaptured by the licensee. [Other such domestic game birds which have escaped may be recaptured by the licensee provided they are marked as prescribed in the rules and regulations of the department.] Escaped birds may be recaptured only on the premises of the licensee.

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

Shooting authorization shall be based on the actual number of birds on hand or on contract at the time of application for such authorization. If birds are purchased, the applicant shall submit one copy of the contract agreement signed by the purchaser and seller on forms furnished by the department. The contract shall state the name, address and license number of the party from whom purchased as well as the numbers of birds purchased and the dates of delivery.

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

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

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

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

c. The licensee shall keep records of the number of tags used. If a shooting preserve license is not renewed on its expiration date, all unused tags on inventory shall be returned to the nearest regional

1 office of the department not later than ten days after the expiration
2 date of the license. There shall be no refund of money for such returned
3 tags, which shall be immediately invalidated.

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

14 S 14. Subdivisions 1 and 6 of section 11-1905 of the environmental
15 conservation law, the opening paragraph of subdivision 1 as amended by
16 chapter 41 of the laws of 1973, paragraphs a and b of subdivision 1 as
17 amended by chapter 528 of the laws of 1986, are amended to read as
18 follows:

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

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

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

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

43 b. The tagging required by this subdivision shall constitute compli-
44 ance with the tagging requirements of section 11-1721. Loins or quarters
45 of domestic game animals, killed by Class A licensees and tagged as
46 provided in this subdivision, may be possessed, bought, sold and offered
47 for sale, and transported as provided in section 11-1723 and may be sold
48 and offered for sale by the holder of a Class A license under this
49 section without the game dealer's license provided for in section
50 11-1719.] DOMESTIC GAME ANIMAL CARCASSES AND PARTS SHALL BE IDENTIFIED
51 AS REQUIRED BY SECTION 11-1721 OF THIS ARTICLE.

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

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

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

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

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

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

16 c. No fish, required to be [tagged] IDENTIFIED as specified in para-
17 graph a of this subdivision, taken pursuant to this section shall be
18 possessed off the premises of the fishing preserve without such [tag]
19 IDENTIFICATION FORM, and no person shall sell such fish without such
20 [tag attached, except for scientific, exhibition or stocking purposes]
21 IDENTIFICATION FORM.

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

27 S 17. Subdivision 14 of section 13-0309 of the environmental conserva-
28 tion law, as amended by section 1 of part A of chapter 59 of the laws of
29 2006, is amended to read as follows:

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

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

38 3. "Wild game" means all game, except (a) domestic game bird and
39 domestic game animal as defined in subdivision 4; (b) carcasses of
40 foreign game as defined in section 11-1717, imported from outside the
41 United States [and tagged as provided in section 11-1721]; (c) game
42 propagated or kept alive in captivity as provided in section 11-1907;
43 (d) game imported alive pursuant to license of the department, or arti-
44 ficially propagated, until such game is liberated; and (e) game so
45 imported or propagated when liberated for the purpose of a field trial
46 and taken during the field trial for which it was liberated.

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

50 2. The carcasses, or parts thereof, of foreign game imported from
51 outside the United States may be bought and sold [when tagged as
52 required in section 11-1721, subject to the provisions of section
53 11-1719 with respect to dealers' licenses].

54 S 20. This act shall take effect immediately, except that if this act
55 shall have become a law on or after April 1, 2012 this act shall take
56 effect immediately and shall be deemed to have been in full force and

1 effect on and after April 1, 2012; provided that the amendments to
2 subdivision 2 of section 11-0931 of the environmental conservation law
3 made by section six of this act shall be subject to the expiration and
4 reversion of such subdivision pursuant to chapter 483 of the laws of
5 2010, as amended, when upon such date the provisions of section seven of
6 this act shall take effect.

7

PART I

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

10 28. THE TERM "VOICE-OVER-INTERNET PROTOCOL SERVICE" OR "VOIP SERVICE"
11 WHEN USED IN THIS CHAPTER, SHALL MEAN ANY SERVICE THAT: (A) ENABLES
12 REAL-TIME TWO-WAY VOICE COMMUNICATIONS THAT ORIGINATE FROM OR TERMINATE
13 TO THE USER'S LOCATION USING INTERNET PROTOCOL OR ANY SUCCESSOR PROTO-
14 COL; (B) USES A BROADBAND CONNECTION FROM THE USER'S LOCATION; AND (C)
15 PERMITS USERS GENERALLY TO RECEIVE CALLS THAT ORIGINATE ON THE PUBLIC
16 SWITCHED TELEPHONE NETWORK AND TO TERMINATE CALLS TO THE PUBLIC SWITCHED
17 TELEPHONE NETWORK.

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

21 d. To every telephone line which lies wholly within the state and that
22 part within the state of New York of every telephone line which lies
23 partly within and partly without the state and to the persons or corpo-
24 rations owning, leasing or operating any such telephone line. NOTWITH-
25 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NEITHER THE COMMIS-
26 SION, THE DEPARTMENT OF PUBLIC SERVICE, NOR ANY OTHER DEPARTMENT OR
27 AGENCY OF THIS STATE, OR ANY POLITICAL SUBDIVISION THEREOF, SHALL HAVE
28 AUTHORITY TO REGULATE THE ENTRY, RATES OR OTHER TERMS OF SERVICE OF
29 VOICE-OVER-INTERNET PROTOCOL SERVICE. PROVIDED, HOWEVER, THAT NOTHING
30 IN THIS PARAGRAPH SHALL AFFECT THE AUTHORITY OF THE STATE OR ITS AGEN-
31 CIES TO ENFORCE SUCH REQUIREMENTS AS ARE OTHERWISE EXPRESSLY PROVIDED
32 FOR BY FEDERAL LAW, INCLUDING, BUT NOT LIMITED TO, CONNECTION TO 911
33 FACILITIES, THE COLLECTION OF ENHANCED 911 FEES, TELECOMMUNICATIONS
34 RELAY SERVICE FEES, OR FEDERAL UNIVERSAL SERVICE FUND FEES ON
35 VOICE-OVER-INTERNET PROTOCOL SERVICES THAT MAY BE DETERMINED TO APPLY,
36 OR BE CONSTRUED TO (1) MODIFY OR AFFECT THE RIGHTS, OBLIGATIONS OR
37 AUTHORITY OF ANY ENTITY, INCLUDING BUT NOT LIMITED TO THE PUBLIC SERVICE
38 COMMISSION, TO ACT PURSUANT TO, OR ENFORCE THE PROVISIONS OF 47 U.S.C.
39 251, 47 U.S.C. 252, ANY APPLICABLE TARIFF, OR ANY STATE LAW, RULE, REGU-
40 LATION OR ORDER RELATED TO WHOLESALE RIGHTS, DUTIES AND OBLIGATIONS,
41 INCLUDING THE RIGHTS, DUTIES, AND OBLIGATIONS OF LOCAL EXCHANGE CARRIERS
42 TO INTERCONNECT AND EXCHANGE VOICE TRAFFIC; (2) MODIFY OR AFFECT THE
43 AUTHORITY OF THE PUBLIC SERVICE COMMISSION TO IMPLEMENT, CARRY OUT, AND
44 ENFORCE SUCH PROVISIONS, RIGHTS, DUTIES, OBLIGATIONS OR TARIFF THROUGH
45 ARBITRATION PROCEEDINGS OR OTHER AVAILABLE MECHANISMS AND PROCEDURES; OR
46 (3) AFFECT THE PAYMENT OF SWITCHED NETWORK ACCESS RATES OR OTHER INTER-
47 CARRIER COMPENSATION RATES, AS APPLICABLE. NOTHING HEREIN SHALL BE
48 CONSTRUED TO AFFECT THE APPLICATION OR ENFORCEMENT OF OTHER STATUTES OR
49 REGULATIONS THAT APPLY GENERALLY TO THE CONDUCT OF BUSINESS IN THE
50 STATE, INCLUDING CONSUMER PROTECTION, TAXATION OR UNFAIR OR DECEPTIVE
51 TRADE PRACTICES RULES OF GENERAL APPLICABILITY.

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

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

6 S 4. This act shall take effect immediately.

7 PART J

8 Section 1. Paragraph f of subdivision 1 of section 72-0402 of the
9 environmental conservation law, as added by chapter 99 of the laws of
10 2010, is amended to read as follows:

11 f. In any case where a generator EITHER (I) recycles more than ninety
12 percent of the [amount] TOTAL TONS of hazardous waste or more than nine-
13 ty percent of the [amount] TOTAL TONS of hazardous wastewater WHICH it
14 [produces in any] GENERATED DURING THAT calendar year, as certified to
15 the commissioner, [upon which a fee is imposed pursuant to this section,
16 any such fee imposed or to be imposed in such case] OR (II) RECYCLES
17 MORE THAN FOUR THOUSAND TONS OF HAZARDOUS WASTE OR MORE THAN FOUR THOU-
18 SAND TONS OF HAZARDOUS WASTEWATER WHICH IT GENERATED IN THAT CALENDAR
19 YEAR, AS CERTIFIED TO THE COMMISSIONER, THE FEE IMPOSED PURSUANT TO THIS
20 SECTION shall be [determined] CALCULATED AND IMPOSED based upon the net
21 amount of hazardous waste or THE NET AMOUNT OF hazardous wastewater
22 generated[, as applicable, which] THAT is not [so] recycled in [such]
23 THAT calendar year, rather than upon the gross [amount] AMOUNTS of
24 hazardous waste [or] AND hazardous wastewater generated in such calendar
25 year.

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

30 PART K

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

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

47 4. Moneys in such fund, following appropriation by the legislature,
48 [shall] MAY be used, for the purpose of paying all costs of the depart-
49 ment of environmental conservation and New York state environmental
50 facilities corporation for management and administration of the sewage
51 treatment program established by section 17-1909 of the environmental
52 conservation law and of the water pollution control revolving fund

1 established by section twelve hundred eighty-five-j of the public
2 authorities law.

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

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

15 4. Moneys in the fund, following appropriation by the legislature,
16 [shall] MAY be used, for the purpose of paying all costs of the depart-
17 ment of health and New York state environmental facilities corporation
18 for management and administration of the drinking water program estab-
19 lished by title four of article eleven of the public health law and of
20 the drinking water revolving fund established by section twelve hundred
21 eighty-five-m of the public authorities law.

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

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

43 Notwithstanding the foregoing, if the sources of revenues described in
44 paragraphs (a), (b) and (c) of this subdivision are at any time insuffi-
45 cient to make a reimbursement to the state pursuant to this subdivision
46 when due, the corporation shall make such reimbursement from any other
47 available amounts in the water pollution control revolving fund, exclud-
48 ing all amounts that are the subject of allocations, provided, that the
49 amounts paid from fund sources other than those described in paragraphs
50 (a), (b) and (c) of this subdivision shall be reimbursed upon a determi-
51 nation by the director of the budget that future revenues obtained from
52 sources described in paragraphs (a), (b) and (c) of this subdivision are
53 in excess of the amounts reasonably needed to make future reimbursements
54 pursuant to this subdivision.

55 7. The corporation [shall] MAY transfer to the sewage treatment
56 program management and administration fund established pursuant to

1 section ninety-seven-1 of the state finance law no less frequently than
2 semi-monthly amounts from the fund sufficient to reimburse the sewage
3 treatment program management and administration fund in accordance with
4 the provisions of subdivision five of this section.

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

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

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

13 PART L

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

17 S 140. Samples; publication of results of tests. 1. The commissioner
18 or his or her duly authorized representatives shall take samples of
19 seeds [and submit them to the director of the New York state agricul-
20 tural experiment station] for examination, analysis, and testing BY THE
21 DEPARTMENT. THE COMMISSIONER MAY CONTRACT WITH A QUALIFIED LABORATORY TO
22 PERFORM SUCH EXAMINATION, ANALYSIS, AND TESTING. When the analysis of an
23 official sample indicates that seed is mislabeled, the results of such
24 analysis shall be provided to the person responsible for the labeling of
25 the seed and, upon that person's request, made within fifteen days of
26 his or her receipt of said results, the commissioner or his or her
27 authorized agent shall furnish such person with a portion of the sample
28 taken.

29 2. [The director of the New York state agricultural experiment station
30 shall examine, analyze, or test, or cause to be examined, analyzed or
31 tested such samples of seeds taken under the provisions of this article
32 as shall be submitted to him for that purpose by the commissioner, and
33 shall report the results of such analysis, examination, or testing to
34 the commissioner. For this purpose the New York state agricultural
35 experiment station may establish and maintain trial grounds and a seed
36 laboratory with the necessary equipment, and may employ experts and
37 incur such expense as may be necessary to comply with the requirements
38 of this article.

39 3.] From time to time the [New York state agricultural experiment
40 station, in cooperation with the] department of agriculture and markets,
41 shall make public the results of examinations, analyses, trials, and
42 tests of any sample or samples so procured, together with such addi-
43 tional information as circumstances advise. These published results
44 shall be the property of the state of New York and shall not be used for
45 advertising or regulatory purposes by any person or agency, governmental
46 or otherwise without requested and granted permission of the commission-
47 er [of agriculture and markets].

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

50 S 140-a. Provision for seed tests. Any citizen of this state shall
51 have the privilege of submitting to the [New York state agricultural
52 experiment station] DEPARTMENT samples of seeds for [test] TESTING and
53 analysis subject to [such rules and regulations as may be adopted by the
54 director of said experiment station and approved by Cornell university]

PAYMENT OF A FEE TO THE COMMISSIONER THAT SHALL, AT A MINIMUM, COVER THE FULL COSTS OF THE SERVICES PROVIDED. ALL MONIES RECEIVED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN AN ACCOUNT WITHIN THE MISCELLANEOUS SPECIAL RECEIVE FUND AND SHALL BE USED TO DEFRAY THE EXPENSES INCIDENTAL TO CARRYING OUT THE SERVICES AUTHORIZED BY THIS SECTION.

S 3. This act shall take effect immediately.

PART M

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

25-c. The commissioner may enter into a contract or cooperative agreement under which [laboratory] services, INCLUDING, BUT NOT LIMITED TO, LABORATORY SERVICES AND SERVICES RELATING TO FOOD SAFETY AND INSPECTION, ANIMAL HEALTH, INVASIVE SPECIES CONTROL, THE COLLECTION OF SAMPLES FOR RESEARCH STUDIES AND SIMILAR SERVICES RELATING TO THE DUTIES AND RESPONSIBILITIES of the department may be made available to federal, state, local, and educational entities when, in the commissioner's judgment, such contract or cooperative agreement shall be in the public interest and shall not adversely affect the department's obligations under this chapter. Such contracts or cooperative agreements shall require payment by contractors and cooperators of, at a minimum, the full costs of the services provided. All moneys received by the commissioner pursuant to such contracts and agreements shall be deposited in an account within the miscellaneous special revenue fund and shall be used to defray the expenses incidental to carrying out the services authorized by this subdivision.

S 2. This act shall take effect immediately.

PART N

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

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

The applicant shall furnish evidence of his or her good character, experience and competency, that the establishment has adequate facilities and equipment for the business to be conducted, that the establishment is such that the cleanliness of the premises can be maintained, that the product produced therein will not become adulterated and, if

1 the applicant is a retail food store, that the applicant has an individ-
2 ual in a position of management or control who has completed an approved
3 food safety education program pursuant to section two hundred fifty-one-
4 z-twelve of this article. The commissioner, if so satisfied, shall issue
5 to the applicant, upon payment of the license fee of four hundred
6 dollars, a license to operate the food processing establishment
7 described in the application. However, the license fee shall be nine
8 hundred dollars for a food processing establishment determined by the
9 commissioner, pursuant to duly promulgated regulations, to require more
10 intensive regulatory oversight due to the volume of the products
11 produced, the potentially hazardous nature of the product produced or
12 the multiple number of processing operations conducted in the establish-
13 ment. The license application for retail food stores shall be accompa-
14 nied by documentation in a form approved by the commissioner which
15 demonstrates that the food safety education program requirement has been
16 met. The license shall take effect on the date of issuance and continue
17 [until the last day of the applicable license period set forth in this
18 section] FOR TWO YEARS FROM SUCH DATE.

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

23 S 2. Subdivision 4 of section 128-a of the agriculture and markets law
24 is REPEALED and subdivisions 5, 6, 7, 8, 9 and 10 are renumbered subdi-
25 visions 4, 5, 6, 7, 8 and 9.

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

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

29 S 5. This act shall take effect immediately.

30 PART O

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

35 S 2. 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.

37 PART P

38 Section 1. Expenditures of moneys appropriated in a chapter of the
39 laws of 2012 to the energy research and development authority, under the
40 research, development and demonstration program, from the special reven-
41 ue funds - other/state operations, miscellaneous special revenue fund -
42 339, energy research and planning account, and special revenue funds -
43 other/aid to localities, miscellaneous special revenue fund - 339, ener-
44 gy research and planning account shall be subject to the provisions of
45 this section. Notwithstanding the provisions of subdivision 4-a of
46 section 18-a of the public service law, all moneys committed or expended
47 shall be reimbursed by assessment against gas corporations and electric
48 corporations as defined in section 2 of the public service law, and the
49 total amount which may be charged to any gas corporation and any elec-
50 tric corporation shall not exceed one cent per one thousand cubic feet
51 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
52 corporations in their intrastate utility operations in calendar year

2010. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law, but shall be billed and paid in the manner set forth in such subdivision and upon receipt shall be paid to the state comptroller for deposit in the state treasury for credit to the miscellaneous special revenue fund. The director of the budget shall not issue a certificate of approval with respect to the commitment and expenditure of moneys hereby appropriated until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the director of the budget to the chairs and secretaries of the legislative fiscal committees.

S 2. 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 Q

Section 1. Paragraphs (c) and (d) of subdivision 3 of section 5 of 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, as amended by chapter 3 of the laws of 2004, are amended and a new paragraph (e) is added to read as follows:

(c) Enter into such other agreements with the city, the state, the New York state urban development corporation, the operating corporation, Triborough bridge and tunnel authority and the state of New York mortgage agency as the parties thereto deem appropriate to effectuate the provisions of this act, and to effectuate the expansion project and any convention center hotel and the financing thereof pursuant to the chapter of the laws of 2004 which amended this paragraph; [and]

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

(E) SELL, GRANT OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY OWNED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION INCLUDING, WITHOUT LIMITATION, THE PROPERTIES IN THE BOROUGH OF MANHATTAN IN THE CITY OF NEW YORK, LOCATED BETWEEN 11TH AND 12TH AVENUES AND 33RD STREET AND 34TH STREET AND BETWEEN 35TH STREET AND 36TH STREET ALONG THE EASTERN BORDER OF 11TH AVENUE, THAT IS DETERMINED BY THE NEW YORK CONVENTION CENTER DEVELOPMENT CORPORATION TO BE UNNECESSARY FOR THE OPERATION OF THE CONVENTION CENTER, THE EXPANSION PROJECT OR ANY CONVENTION CENTER HOTEL, SUBJECT TO ANY OBLIGATIONS SET FORTH IN ANY APPLICABLE BOND RESOLUTION OR CREDIT SUPPORT AGREEMENT AND SUBJECT TO THE PRIOR APPROVAL OF THE DIRECTOR OF THE BUDGET, PROVIDED THAT ANY PROCEEDS FROM THE DISPOSITION OF THE PROPERTY SHALL BE TRANSFERRED TO THE STATE TREASURY TO THE CREDIT OF THE GENERAL FUND.

S 2. This act shall take effect immediately.

PART R

Section 1. Section 2 of 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, as

1 amended by section 1 of part G of chapter 60 of the laws of 2011, is
2 amended to read as follows:

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

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

13 PART S

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

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, 2009.

19 PART T

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

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

30 S 2. This act shall take effect immediately.

31 PART U

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

35 1. Linked loans made to certified businesses in empire zones or to
36 eligible businesses in highly distressed areas or to eligible businesses
37 that are defined in paragraph (b-1) of subdivision eleven of section two
38 hundred thirteen of this article that are located in a renewal community
39 or defined in paragraph (b-2) of such subdivision that are located in an
40 empowerment zone or defined in paragraph (b-3) of such subdivision that
41 are located in an enterprise community, respectively for eligible
42 projects defined in paragraph (c) of subdivision twelve of section two
43 hundred thirteen of this article or to minority- or women-owned business
44 enterprises for an eligible project defined in paragraph (e) of subdivi-
45 sion twelve of section two hundred thirteen of this article or to a
46 defense industry manufacturer for a project defined in paragraph (d) of
47 subdivision twelve of section two hundred thirteen of this article OR TO
48 AN ELIGIBLE BUSINESS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ELEVEN OF
49 SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE THAT PRODUCES PRODUCTS
50 DEFINED IN SUBDIVISION TWO OF SECTION THREE HUNDRED ONE OF THE AGRICUL-

1 TURE AND MARKETS LAW FOR AN ELIGIBLE PROJECT AS DEFINED IN PARAGRAPH (B)
2 OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED THIRTEEN OF THIS ARTICLE
3 shall bear interest at a fixed rate equal to three percentage points
4 below the fixed interest rate the lender would have charged for the loan
5 in the absence of a linked deposit based on its usual credit consider-
6 ations. All other linked loans shall bear interest at a fixed rate
7 equal to two percentage points below the fixed interest rate the lender
8 would have charged for the loan in the absence of a linked deposit based
9 on its usual credit considerations. Lenders shall certify to the commis-
10 sioner of economic development that the rate to be charged on a linked
11 loan is two percentage points or three percentage points, as the case
12 may be, below the interest rate the lender would have charged for the
13 loan in the absence of a linked deposit.

14 S 2. Paragraph (a) of subdivision 11 and paragraph (b) of subdivision
15 12 of section 213 of the state finance law, as added by chapter 705 of
16 the laws of 1993, are amended to read as follows:

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

19 (b) for manufacturing, AGRICULTURAL and service firms, projects which
20 involve the preparation of strategic plans for improving productivity
21 and competitiveness; the introduction of modern equipment and/or an
22 expansion of facilities as part of a modernization plan; the introduc-
23 tion of advanced technologies to improve productivity and quality;
24 improvements in production processes and operations, INCLUDING AGRICUL-
25 TURAL OPERATIONS; introduction of computerized information, reporting
26 and control systems; reorganization or improvement of work place systems
27 and the introduction of total quality and employee participation
28 programs; development and introduction of new products; identification
29 and development of new markets, including entry into foreign markets;
30 financial restructuring for purposes of enabling modernization activ-
31 ities; buyouts of viable companies by employees or local owners residing
32 in the state; and the provision of working capital for other moderniza-
33 tion activities that will improve the competitiveness and productivity
34 of a firm and result in the creation or retention of jobs; or

35 S 3. This act shall take effect immediately.

36 PART V

37 Section 1. Notwithstanding any other law, rule or regulation to the
38 contrary, expenses of the department of health public service education
39 program incurred pursuant to appropriations from the cable television
40 account of the state miscellaneous special revenue funds shall be deemed
41 expenses of the department of public service.

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

44 PART W

45 Section 1. Subdivision 10 of section 89-h of the general business law,
46 as amended by chapter 699 of the laws of 2004, is amended to read as
47 follows:

48 10. Fees: pay (a) a fee of [thirty-six] SEVENTY-TWO dollars for proc-
49 essing of the application, investigation of the applicant and for the
50 initial [biennial] FOUR YEAR registration period. Such fees shall be
51 deposited to the credit of the business and licensing services account
52 established pursuant to the provisions of section ninety-seven-y of the

1 state finance law; and (b) a fee pursuant to subdivision eight-a of
2 section eight hundred thirty-seven of the executive law, and amendments
3 thereto, for the cost of the division's full search and retain proce-
4 dures, and a fee as determined by the federal bureau of investigation
5 for the cost of its fingerprint search procedures, which fees shall be
6 remitted by the department to the division and federal bureau of inves-
7 tigation; and

8 S 2. Subdivision 1 of section 89-m of the general business law, as
9 added by chapter 336 of the laws of 1992, is amended to read as follows:

10 1. Registration cards shall expire [two] FOUR years from the date of
11 issuance or last renewal as the case may be. Not less than sixty nor
12 more than ninety days prior to the expiration date of a registration
13 card, the department shall mail to each registrant at his last known
14 address, notice of renewal and a registration renewal form. Registration
15 cards shall not be renewed unless not more than sixty nor less than
16 thirty days prior to the expiration date of the registration card, the
17 holder submits to the department, a registration renewal form sworn to
18 or affirmed by the holder under the penalty of perjury together with a
19 [biennial] renewal fee in the amount of [twenty-five] FIFTY dollars
20 payable to the department and a certificate certifying that the holder
21 has satisfactorily completed the required annual in-service training
22 courses as prescribed by the commissioner pursuant to subdivision one of
23 section eight hundred forty-one-c of the executive law. Unless the
24 department determines the existence of facts which would constitute
25 cause for denial, revocation or suspension of the registration card
26 pursuant to this article, it shall renew the registration card. Denial
27 of renewal hereunder shall be reviewable by an administrative hearing as
28 set forth in section seventy-nine of this chapter. The [twenty-five]
29 FIFTY dollar [biennial] renewal fee collected by the department shall be
30 deposited to the licensing examinations services account established
31 pursuant to the provisions of section 97-aa of the state finance law.
32 Notice that a registration card has expired or has not been renewed
33 pursuant to this section shall be given by the secretary to the holder
34 of such registration card and to the security guard company by which
35 such holder was employed at the time of such expiration or non-renewal.

36 S 3. Subdivision 2 and paragraph (a) of subdivision 3 of section 441
37 of the real property law, subdivision 2 as amended by chapter 81 of the
38 laws of 1995 and paragraph (a) of subdivision 3 as amended by chapter
39 474 of the laws of 2007, are amended to read as follows:

40 2. Renewals. Any license granted under the provision hereof may be
41 renewed by the department upon application therefor by the holder there-
42 of, in such form as the department may prescribe and conforming to the
43 requirements of section 3-503 of the general obligations law, and
44 payment of the fee for such license. In case of application for renewal
45 of license, the department may dispense with the requirement of such
46 statements as it deems unnecessary in view of those contained in the
47 original application for license but may not dispense with the require-
48 ments of section 3-503 of the general obligations law. A renewal period
49 within the meaning of this act is considered as being a period of [two]
50 FOUR years from the date of expiration of a previously issued license.
51 The department shall require any applicant, who does not apply for
52 renewal of license within such period, to qualify by passing the written
53 examination as provided herein, and may require any licensee who has not
54 yet passed the written examination, and who cannot reasonably prove to
55 the satisfaction of the department, that he can meet the competency
56 requirements, to pass the written examination before a renewal of

1 license shall be granted; provided, however, that a person who failed or
2 was unable to renew his license by reason of his induction or enlistment
3 in the armed forces of the United States shall not be required to take
4 or pass such examination.

5 (a) No renewal license shall be issued any licensee under this article
6 for any license period commencing [November first, nineteen hundred
7 ninety-five] APRIL FIRST, TWO THOUSAND SEVENTEEN unless such licensee
8 shall have within the [two] FOUR year period immediately preceding such
9 renewal attended at least [twenty-two and one-half] FORTY-FIVE hours
10 which shall include at least [three] SIX hours of instruction pertaining
11 to fair housing and/or discrimination in the sale or rental of real
12 property or an interest in real property and successfully completed a
13 continuing education real estate course or courses approved by the
14 secretary of state as to method, content and supervision, which approval
15 may be withdrawn if in the opinion of the secretary of state such course
16 or courses are not being conducted properly as to method, content and
17 supervision. APPLICANTS WITH A LICENSE EXPIRING PRIOR TO APRIL FIRST,
18 TWO THOUSAND FIFTEEN, SHALL HAVE WITHIN THE TWO YEAR PERIOD IMMEDIATELY
19 PRECEDING SUCH RENEWAL ATTENDED AT LEAST TWENTY-TWO AND ONE-HALF HOURS
20 WHICH SHALL INCLUDE AT LEAST THREE HOURS OF INSTRUCTION PERTAINING TO
21 FAIR HOUSING AND/OR DISCRIMINATION IN THE SALE OR RENTAL OF REAL PROPER-
22 TY OR AN INTEREST IN REAL PROPERTY AND SUCCESSFULLY COMPLETED A CONTINU-
23 ING EDUCATION REAL ESTATE COURSE OR COURSES APPROVED BY THE SECRETARY OF
24 STATE AS TO METHOD, CONTENT AND SUPERVISION, WHICH APPROVAL MAY BE WITH-
25 DRAWN IF IN THE OPINION OF THE SECRETARY OF STATE SUCH COURSE OR COURSES
26 ARE NOT BEING CONDUCTED PROPERLY AS TO METHOD, CONTENT AND SUPERVISION.
27 The licensee shall provide an affidavit, in a form acceptable to the
28 department of state, establishing the nature of the continuing education
29 acquired and shall provide such further proof as required by the depart-
30 ment of state. The provisions of this paragraph shall not apply to any
31 licensed real estate broker who is engaged full time in the real estate
32 business and who has been licensed under this article prior to July
33 first, two thousand eight for at least fifteen consecutive years imme-
34 diately preceding such renewal.

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

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

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

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

52 1. The fee for a license issued or reissued under the provisions of
53 this article entitling a person, co-partnership, limited liability
54 company or corporation to act as a real estate broker shall be [one
55 hundred fifty] THREE HUNDRED dollars. The fee for a license issued or
56 reissued under the provisions of this article entitling a person to act

1 as a real estate salesman shall be [fifty] ONE HUNDRED dollars.
2 Notwithstanding the provisions of subdivision seven of section four
3 hundred forty-one-a of this article, after January first, nineteen
4 hundred eighty-six, the secretary of state shall assign staggered expi-
5 ration dates for outstanding licenses that have been previously renewed
6 on October thirty-first of each year from the assigned date unless
7 renewed. [If the assigned date results in a term that exceeds twenty-
8 four months, the applicant shall pay an additional prorated adjustment
9 together with the regular renewal fee.] The secretary of state shall
10 assign dates to existing licenses in a manner which shall result in a
11 term of not less than [two] FOUR years.

12 S 6. This act shall take effect immediately; provided, however, that
13 sections three, four and five of this act shall take effect April 1,
14 2013.

15 PART X

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

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

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

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

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

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

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

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

53 [c.] B. The rules of the board shall also provide that all winning
54 pari-mutuel tickets must be presented for payment before April first of

1 the year following the year of their purchase and failure to present any
2 such ticket within the prescribed period of time shall constitute a
3 waiver of the right to participate in the award or dividend.

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

11 d. The board shall have power in its discretion, consistent with the
12 powers of the state tax commission, to prescribe uniform methods of
13 keeping accounts, records and books to be observed by associations or
14 corporations licensed under the provisions of this article or by any
15 association or corporation which owns stock in, or shares in the
16 profits, or participates in the management or affairs of, such licensed
17 association or corporation, or by any person, firm, association or
18 corporation holding any concession, right or privilege to perform any
19 service or sell any article at any track at which pari-mutuel quarter
20 horse racing meets are conducted. The board may also in its discretion,
21 consistent with the powers of the state tax commission, prescribe by
22 order forms of accounts, records and memoranda to be kept by such
23 persons, firms, associations or corporations. The board shall have power
24 to visit, investigate, and place expert accountants, or such other
25 persons as it may deem necessary, in the offices, tracks or other places
26 of business of any such person, firm, association or corporation for the
27 purpose of seeing that the provisions of sections two hundred twenty-two
28 through seven hundred five of this chapter and rules and regulations
29 issued by the board thereunder are strictly complied with. Such persons,
30 firms, associations or corporations shall annually file with the board,
31 on such date as the board shall prescribe, a report showing their finan-
32 cial condition and financial transactions during the fiscal year,
33 including a balance sheet and a profit and loss statement, verified by
34 the oath of at least two of its principal officers, if it be an associ-
35 ation or corporation having officers, and by one or more of the owners
36 or proprietors thereof if not an association or corporation. The report
37 shall be in such form and contain such other matters as the board may
38 determine from time to time to be necessary to disclose accurately the
39 financial condition and operation of such persons, firms, associations
40 or corporations during the preceding fiscal year. The board may for good
41 cause shown grant a reasonable extension of time for the filing of any
42 such report.

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

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

53 S 5. This act shall take effect immediately; provided, however, that
54 effective immediately, the addition, amendment and/or repeal of any rule
55 or regulation necessary for the implementation of this act on its effec-

1 tive date is authorized and directed to be made and completed on or
2 before such effective date.

3 PART Y

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

6 S 308. Officials at harness horse race meetings. At all harness race
7 meetings licensed by the state racing and wagering board in accordance
8 with the provisions of sections two hundred twenty-two through seven
9 hundred five of this chapter qualified judges and [starters] RACING
10 OFFICIALS shall be designated by the state racing and wagering board.
11 THE LICENSED RACING ASSOCIATIONS AND CORPORATIONS SHALL EMPLOY AND
12 APPOINT ONE ASSOCIATE JUDGE AND THE STARTER TO SERVE AT HARNESS RACE
13 MEETINGS, SUBJECT TO WRITTEN APPROVAL OF THE STATE RACING AND WAGERING
14 BOARD BEFORE ENTERING UPON THE DISCHARGE OF THEIR DUTIES. Such officials
15 shall enforce the rules and regulations of the state racing and wagering
16 board and shall render regular written reports of the activities and
17 conduct of such race meetings to the state racing and wagering board,
18 PROVIDED HOWEVER, THAT THE JUDGES AND STARTERS EMPLOYED BY THE RACING
19 ASSOCIATION OR CORPORATION SHALL NOT HAVE THE POWER TO IMPOSE FINES OR
20 ISSUE SUSPENSIONS OF OCCUPATIONAL RACING LICENSES.

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

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

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

31 PART Z

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

34 ARTICLE 21-A

35 DAIRY RESEARCH AND EDUCATION

36 SECTION 258-S. LEGISLATIVE DECLARATION.

37 258-T. DEFINITIONS.

38 258-U. POWERS AND DUTIES OF THE COMMISSIONER.

39 258-V. RULES AND REGULATIONS; ENFORCEMENT.

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

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

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

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

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

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

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

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

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

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

21 7 "MILK" MEANS COW'S MILK.

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

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

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

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

33 (A) BEFORE ANY SUCH ORDER MAY BECOME EFFECTIVE IT MUST BE APPROVED BY
34 FIFTY-ONE PER CENTUM OF THE PRODUCERS OF MILK VOTING IN THE REFERENDUM
35 FOR THE AREA TO BE REGULATED BY SUCH ORDER. SUCH REFERENDUM SHALL NOT
36 CONSTITUTE VALID APPROVAL UNLESS FIFTY-ONE PER CENTUM OF ALL MILK
37 PRODUCERS FOR THE AREA TO BE REGULATED VOTE IN THE REFERENDUM. PRODUCERS
38 MAY VOTE BY INDIVIDUAL BALLOT OR THROUGH THEIR COOPERATIVES IN ACCORD-
39 ANCE WITH THE FOLLOWING PROCEDURES:

40 (I) COOPERATIVES MAY SUBMIT WRITTEN APPROVAL OF SUCH ORDER WITHIN A
41 PERIOD OF NINETY DAYS AFTER THE COMMISSIONER HAS ANNOUNCED A REFERENDUM
42 ON A PROPOSED ORDER, FOR SUCH PRODUCERS WHO ARE LISTED AND CERTIFIED TO
43 THE COMMISSIONER AS MEMBERS OF SUCH COOPERATIVE, PROVIDED, HOWEVER, THAT
44 ANY COOPERATIVE BEFORE SUBMITTING SUCH WRITTEN APPROVAL SHALL GIVE AT
45 LEAST THIRTY DAYS PRIOR WRITTEN NOTICE TO EACH PRODUCER WHO IS ITS
46 MEMBER, OF THE INTENTION OF THE COOPERATIVE TO APPROVE SUCH PROPOSED
47 ORDER, AND FURTHER PROVIDE THAT IF SUCH COOPERATIVE DOES NOT INTEND TO
48 APPROVE SUCH PROPOSED ORDER, IT SHALL LIKEWISE GIVE WRITTEN NOTICE TO
49 EACH SUCH PRODUCER WHO IS ITS MEMBER, OF ITS INTENTION NOT TO APPROVE OF
50 SUCH PROPOSED ORDER.

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

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

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

(V) THE COMMISSIONER MAY APPOINT A REFERENDUM ADVISORY COMMITTEE TO ASSIST AND ADVISE IN THE CONDUCT OF THE REFERENDUM. SUCH COMMITTEE SHALL REVIEW REFERENDUM PROCEDURES AND THE TABULATION OF RESULTS, AND SHALL ADVISE THE COMMISSIONER OF ITS FINDINGS. THE FINAL CERTIFICATION OF THE REFERENDUM RESULTS SHALL BE MADE BY THE COMMISSIONER. THE COMMITTEE 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

1 TWO OF THIS SECTION, THE COMMISSIONER, UPON WRITTEN PETITION OF NO LESS
2 THAN TWENTY-FIVE PERCENT OF PRODUCERS IN THE AREA, EITHER AS INDIVIDUALS
3 OR THROUGH COOPERATIVE REPRESENTATION, MAY CALL A HEARING FOR THE SOLE
4 PURPOSE OF CONSIDERING ESTABLISHING A NEW RATE OF ASSESSMENT HEREUNDER
5 AND MAY SUBMIT A PROPOSED CHANGE IN THE RATE OF ASSESSMENT TO THE
6 PRODUCERS FOR ACCEPTANCE OR REJECTION WITHOUT OTHERWISE AFFECTING THE
7 ORDER. THE PRODUCERS IN THE AREA MAY VOTE ON THE PROPOSED RATE EITHER AS
8 INDIVIDUALS OR THOROUGH COOPERATIVE REPRESENTATION.

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

12 (C) PROVISIONS FOR PAYMENTS TO INSTITUTIONS OR ORGANIZATIONS ENGAGED
13 IN EDUCATIONAL ACTIVITIES TO PROMOTE THE USE OF NEW, INNOVATIVE OR
14 IMPROVED PRACTICES OR METHODS FOR DAIRY PRODUCTION AND FARM PROFITABIL-
15 ITY.

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

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

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

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

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

28 8. PRIOR TO THE ISSUANCE, AMENDMENT OR TERMINATION OF ANY DAIRY
29 RESEARCH AND EDUCATION ORDER, THE COMMISSIONER MAY REQUIRE THE PETITION-
30 ERS FOR SUCH ISSUANCE, AMENDMENT OR TERMINATION TO DEPOSIT WITH HIM OR
31 HER SUCH AMOUNT AS HE OR SHE MAY DEEM NECESSARY TO DEFRAY THE EXPENSES
32 OF PREPARING AND MAKING EFFECTIVE, AMENDING OR TERMINATING THE ORDER.
33 SUCH FUNDS SHALL BE RECEIVED, DEPOSITED AND DISBURSED BY THE COMMISSION-
34 ER IN THE SAME MANNER AS OTHER MONEYS RECEIVED BY THE COMMISSIONER UNDER
35 THIS ARTICLE AND, IN THE EVENT THE APPLICATION FOR ADOPTION, AMENDMENT
36 OR TERMINATION OF A RESEARCH AND EDUCATION ORDER IS APPROVED IN A REFER-
37 ENDUM, THE COMMISSIONER SHALL REIMBURSE ANY SUCH APPLICANT IN THE AMOUNT
38 OF ANY SUCH DEPOSIT FROM ANY UNEXPENDED MONIES COLLECTED UNDER THE
39 RESEARCH ORDER AFFECTED BY SUCH REFERENDUM.

40 9. ANY MONEYS COLLECTED BY THE COMMISSIONER PURSUANT TO THIS ARTICLE
41 SHALL NOT BE DEEMED STATE FUNDS AND SHALL BE DEPOSITED IN A BANK OR
42 OTHER DEPOSITORY IN THIS STATE, APPROVED BY THE COMMISSIONER, AND SHALL
43 BE DISBURSED BY THE COMMISSIONER ONLY FOR THE NECESSARY EXPENSES
44 INCURRED BY THE COMMISSIONER WITH RESPECT TO THE ORDER, ALL IN ACCORD-
45 ANCE WITH THE RULES AND REGULATIONS OF THE COMMISSIONER. ALL SUCH
46 EXPENDITURES SHALL BE AUDITED BY THE STATE COMPTROLLER OR A CERTIFIED
47 PUBLIC ACCOUNTANT AT LEAST EVERY TWO YEARS AND WITHIN FORTY-FIVE DAYS
48 AFTER THE COMPLETION THEREOF THE STATE COMPTROLLER OR CERTIFIED PUBLIC
49 ACCOUNTANT SHALL GIVE A COPY THEREOF TO THE COMMISSIONER AND THE ADVI-
50 SORY BOARD. ANY MONEYS REMAINING IN SUCH FUND MAY, IN THE DISCRETION OF
51 THE COMMISSIONER, BE REFUNDED AT THE CLOSE OF ANY FISCAL YEAR UPON A
52 PRO-RATA BASIS TO ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE
53 COLLECTED OR, WHENEVER THE COMMISSIONER FINDS THAT SUCH MONEYS MAY BE
54 NECESSARY TO DEFRAY THE COST OF OPERATING SUCH RESEARCH AND EDUCATION
55 ORDER IN A SUCCEEDING FISCAL YEAR, THE COMMISSIONER MAY CARRY OVER ALL
56 OR ANY PORTION OF SUCH MONEYS INTO THE NEXT SUCH SUCCEEDING YEAR. UPON

1 THE TERMINATION BY THE COMMISSIONER OF ANY DAIRY RESEARCH AND EDUCATION
2 ORDER, ALL MONEYS REMAINING AND NOT REQUIRED BY THE COMMISSIONER TO
3 DEFRAY THE EXPENSES OF OPERATING SUCH DAIRY RESEARCH AND EDUCATION
4 ORDER, SHALL BE REFUNDED BY THE COMMISSIONER UPON A PRO-RATA BASIS TO
5 ALL PERSONS FROM WHOM ASSESSMENTS THEREFORE WERE COLLECTED; PROVIDED,
6 HOWEVER, THAT IF THE COMMISSIONER FINDS THAT THE AMOUNTS SO REFUNDABLE
7 ARE SO SMALL AS TO MAKE IMPRACTICABLE THE COMPUTATION AND REFUNDING OF
8 SUCH REFUNDS, THE COMMISSIONER MAY USE SUCH MONEYS TO DEFRAY THE
9 EXPENSES INCURRED IN THE FORMULATION, ISSUANCE, ADMINISTRATION OR
10 ENFORCEMENT OF ANY SUBSEQUENT RESEARCH ORDER.

11 10. ADVISORY BOARD. (A) ANY DAIRY RESEARCH AND EDUCATION ORDER ISSUED
12 PURSUANT TO THIS ARTICLE SHALL PROVIDE FOR THE ESTABLISHMENT OF AN ADVI-
13 SORY BOARD TO ADVISE AND ASSIST THE COMMISSIONER IN THE ADMINISTRATION
14 OF SUCH ORDER. THIS BOARD SHALL CONSIST OF NOT LESS THAN FIVE MEMBERS.
15 AT LEAST THREE MEMBERS SHALL REPRESENT DAIRY COOPERATIVES, ONE MEMBER
16 SHALL REPRESENT A GENERAL FARM ORGANIZATION, AND ONE MEMBER SHALL BE AN
17 AT-LARGE PRODUCER REPRESENTATIVE. MEMBERS SHALL SERVE THREE-YEAR TERMS
18 AND SHALL BE APPOINTED BY THE COMMISSIONER FROM NOMINATIONS SUBMITTED BY
19 PRODUCERS LOCATED IN THE AREA TO WHICH THE ORDER APPLIES. THE COMMIS-
20 SIONER SHALL MAKE EVERY EFFORT TO ENSURE THAT THERE IS GEOGRAPHICAL
21 REPRESENTATION FROM THE MAJOR DAIRY PRODUCING REGIONS OF THE STATE.
22 NOMINATING PROCEDURES, QUALIFICATIONS, REPRESENTATION AND SIZE OF THE
23 ADVISORY BOARD SHALL BE PRESCRIBED IN THE ORDER.

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

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

31 (1) RECOMMENDING TO THE COMMISSIONER OF ADMINISTRATIVE RULES AND REGU-
32 LATIONS RELATING TO THE ORDER.

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

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

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

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

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

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

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

52 2. THE COMMISSIONER MAY INSTITUTE SUCH ACTION AT LAW OR IN EQUITY AS
53 MAY APPEAR NECESSARY TO ENFORCE COMPLIANCE WITH ANY PROVISION OF THIS
54 ARTICLE, OR ANY RULE OR REGULATION, OR RESEARCH AND EDUCATION ORDER,
55 COMMITTED TO HIS OR HER ADMINISTRATION, AND IN ADDITION TO ANY OTHER
56 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 extraordinary hardship upon the affected public benefit corporation. The aggregate amount assessed under this section in any given state fiscal year may not exceed [sixty] SIXTY-TWO million dollars.

S 2. This act shall take effect immediately.

PART BB

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

THE STATE OF NEW YORK AND ANY PUBLIC CORPORATION.

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

THE STATE OF NEW YORK AND ANY PUBLIC CORPORATION.

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

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

S 4. This act shall take effect immediately.

PART CC

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

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

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

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

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

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

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

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

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

39 (2) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
40 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
41 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
42 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE CORPO-
43 RATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE
44 MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS
45 SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER
46 THE RETURN RECEIPT SIGNED BY SUCH CORPORATION OR OTHER OFFICIAL PROOF
47 OF DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE
48 WITH A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED.
49 IF ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER
50 WITH NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL
51 BE PROMPTLY SENT TO SUCH CORPORATION AT THE SAME ADDRESS BY ORDINARY
52 MAIL AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS
53 SHALL BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF
54 THE COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO
55 SIGN THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND

1 SUCH CORPORATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED
2 WITH KNOWLEDGE OF THE CONTENTS THEREOF.

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

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

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

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

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

18 (2) That the address of the party has been designated by the corpo-
19 ration as the post office address to which [the secretary of state] A
20 PERSON shall mail a copy of any process served on the secretary of state
21 as agent for such corporation, SUCH ADDRESS and that such party wishes
22 to resign.

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

36 (b) Upon the failure of the designating corporation to file a certifi-
37 cate of amendment or change providing for the designation by the corpo-
38 ration of the new address after the filing of a certificate of resigna-
39 tion for receipt of process with the secretary of state, its authority
40 to do business in this state shall be suspended unless the corporation
41 has previously filed a BIENNIAL statement [of addresses and directors]
42 under section four hundred eight of this chapter, the address of the
43 principal executive office stated in the last filed BIENNIAL statement
44 [of addresses and directors] shall constitute the new address for proc-
45 ess of the corporation, and the corporation shall not be deemed
46 suspended.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 S 10. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
2 the business corporation law, as amended by chapter 494 of the laws of
3 1997, is amended to read as follows:

4 (G) A designation of the secretary of state as its agent upon whom
5 process against it may be served in the manner set forth in paragraph
6 (b) of section 306 (Service of process), in any action or special
7 proceeding, and a post office address, within or without this state, to
8 which [the secretary of state] A PERSON shall mail a copy of any process
9 against it served upon [him] THE SECRETARY OF STATE. Such post office
10 address shall supersede any prior address designated as the address to
11 which process shall be mailed.

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

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

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

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

28 S 13. Subparagraph 2 of paragraph (a) and paragraph (c) of section
29 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
30 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
31 by chapter 172 of the laws of 1999, are amended to read as follows:

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

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

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

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

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

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

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

18 S 16. Section 1311 of the business corporation law, as amended by
19 chapter 375 of the laws of 1998, is amended to read as follows:
20 S 1311. Termination of existence.

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

49 S 17. The opening paragraph of subdivision 1 of section 5 of the
50 cooperative corporations law, as amended by chapter 158 of the laws of
51 1978, is amended to read as follows:

52 The business corporation law applies to every corporation heretofore
53 or hereafter formed under this chapter, or under any other statute or
54 special act of this state, or under laws other than the statutes of this
55 state, which has as its purpose or among its purposes the cooperative
56 rendering of mutual help and service to its members and which, if formed

1 under laws other than the statutes of this state, would, if it were to
2 be formed currently under the laws of this state, be formed under this
3 chapter except a membership cooperative as defined in section three of
4 this chapter, to which the not-for-profit corporation law shall apply.
5 Any corporation to which the business corporation law is made applicable
6 by this section shall be treated as a "corporation," "domestic corpo-
7 ration," or "foreign corporation," as such terms are used in the busi-
8 ness corporation law; provided, however, that neither the purposes for
9 which any such corporation may be formed under this chapter nor its
10 classification as a non-profit corporation shall thereby be extended or
11 affected. [Any corporation to which the not-for-profit corporation law
12 is made applicable by this section shall be a type D not-for-profit
13 corporation.]

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

17 S 11. CERTIFICATE OF INCORPORATION; CONTENTS. Five or more persons may
18 form a corporation, under this chapter, by making[, acknowledging] and
19 filing a certificate of incorporation ENTITLED "CERTIFICATE OF INCORPO-
20 RATION OF (NAME OF CORPORATION) UNDER SECTION 11 OF THE COOPER-
21 ATIVE CORPORATIONS LAW" which shall state:

22 1. Its name. The name shall include the word "Cooperative."
23 2. Its purposes, as permitted by this chapter.
24 3. Its duration.
25 4. The city, village or town and the county in which its office is to
26 be located.

27 5. The names and post office addresses of its incorporators.

28 6. The number of its directors, or that the number of directors shall
29 be within a stated minimum and maximum as the by-laws may from time to
30 time provide. In either case, the number shall be not less than five.

31 7. The names and post office addresses of the directors until the
32 first annual meeting.

33 8. Whether organized with or without capital stock. If organized with
34 stock, the total amount thereof, the total number, if any, of the shares
35 without par value, and the total number and par value of any shares
36 having a par value. If the shares are to be classified, the number of
37 shares to be included in each class and all of the designations, prefer-
38 ences, privileges, and voting rights or restrictions and qualifications
39 of the shares of each class.

40 9. That all of the subscribers are of full age; that at least two-
41 thirds of them are citizens of the United States; that at least one of
42 them is a resident of the state of New York; and that of the persons
43 named as directors at least one is a citizen of the United States and a
44 resident of the state of New York.

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

50 11. If the corporation is to have a registered agent, [his] SUCH
51 AGENT'S name and address within this state and a statement that the
52 registered agent is to be the agent of the corporation upon whom process
53 against it may be served.

54 S 19. The opening paragraph of subdivision 2 and subdivision 3 of
55 section 18 of the general associations law, as amended by chapter 13 of
56 the laws of 1938, are amended to read as follows:

1 Every association doing business within this state shall file in the
2 department of state a certificate in its associate name, signed [and
3 acknowledged] by its president, or a vice-president, or secretary, or
4 treasurer, or managing director, or trustee, designating the secretary
5 of state as an agent upon whom process in any action or proceeding
6 against the association may be served within this state, and setting
7 forth an address to which [the secretary of state] A PERSON shall mail a
8 copy of any process against the association which may be served upon
9 [him] THE SECRETARY OF STATE pursuant to law. Annexed to the certif-
10 icate of designation shall be a statement, executed in the same manner
11 as the certificate is required to be executed under this section, which
12 shall set forth:

13 3. Any association, from time to time, may change the address to
14 which [the secretary of state] A PERSON is directed to mail [copies] A
15 COPY of process SERVED ON THE SECRETARY OF STATE, by filing a statement
16 to that effect, executed[,] AND signed [and acknowledged] in like manner
17 as a certificate of designation as herein provided.

18 S 20. Section 18 of the general associations law is amended by adding
19 two new subdivisions 5 and 6 to read as follows:

20 5. ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
21 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
22 AGENT IN ANY ACTION OR PROCEEDING AGAINST THE ASSOCIATION SHALL BE
23 DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THIS STATE, TO
24 WHICH A PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE ASSOCI-
25 ATION AS REQUIRED BY THIS ARTICLE. ANY DESIGNATED POST OFFICE ADDRESS TO
26 WHICH THE SECRETARY OF STATE OR A PERSON SHALL MAIL A COPY OF ANY PROC-
27 ESS SERVED UPON THE SECRETARY OF STATE AS AGENT IN ANY ACTION OR
28 PROCEEDING AGAINST THE ASSOCIATION SHALL CONTINUE UNTIL THE FILING OF A
29 CERTIFICATE UNDER THIS CHAPTER DIRECTING THE MAILING TO A DIFFERENT POST
30 OFFICE ADDRESS.

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

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

39 S 19. Service of process. 1. Service of process against an association
40 upon the secretary of state shall be made by personally delivering to
41 and leaving with [him] THE SECRETARY OF STATE or a deputy [secretary of
42 state or an associate attorney, senior attorney or attorney in the
43 corporation division of the department of state, duplicate copies of
44 such process at the office of the department of state in the city of
45 Albany], OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO
46 RECEIVE SUCH SERVICE AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE
47 CITY OF ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE
48 OF FORTY DOLLARS, WHICH FEE SHALL BE A TAXABLE DISBURSEMENT. [At the
49 time of such service the plaintiff shall pay a fee of forty dollars to
50 the secretary of state which shall be a taxable disbursement. If the
51 cost of registered mail for transmitting a copy of the process shall
52 exceed two dollars, an additional fee equal to such excess shall be paid
53 at the time of the service of such process. The secretary of state shall
54 forthwith send by registered mail one of such copies to the association
55 at the address fixed for that purpose, as herein provided.]

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

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

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

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

16 (B) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
17 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
18 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
19 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE ASSOCI-
20 ATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE
21 MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS
22 SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER
23 THE RETURN RECEIPT SIGNED BY SUCH ASSOCIATION OR OTHER OFFICIAL PROOF OF
24 DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE WITH
25 A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF
26 ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER WITH
27 NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE
28 PROMPTLY SENT TO SUCH ASSOCIATION AT THE SAME ADDRESS BY ORDINARY MAIL
29 AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL
30 BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE
31 COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN
32 THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH
33 ASSOCIATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
34 KNOWLEDGE OF THE CONTENTS THEREOF.

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

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

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

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

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

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

4 (a) A limited liability company may amend its articles of organization
5 from time to time to (i) specify or change the location of the limited
6 liability company's office; (ii) specify or change the post office
7 address to which [the secretary of state] A PERSON shall mail a copy of
8 any process against the limited liability company served upon [him] THE
9 SECRETARY OF STATE; and (iii) make, revoke or change the designation of
10 a registered agent, or specify or change the address of the registered
11 agent. Any one or more such changes may be accomplished by filing a
12 certificate of change which shall be entitled "Certificate of Change
13 of (name of limited liability company) under section 211-A of
14 the Limited Liability Company Law" and shall be signed and delivered to
15 the department of state. It shall set forth:

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

18 (2) the date the articles of organization were 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 limited liability company served upon [him] THE SECRE-
24 TARY 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 limited liability company may be signed and delivered to the department
29 of state by such agent. The certificate of change shall set forth the
30 statements required under subdivision (a) of this section; that a notice
31 of the proposed change was mailed to the domestic limited liability
32 company 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 domestic limited liability company has not objected thereto; and that
35 the party signing the certificate is the agent of such limited liability
36 company to whose address [the secretary of state] A PERSON is required
37 to mail [copies] A COPY of process SERVED ON THE SECRETARY OF STATE or
38 the registered agent, if such be the case. A certificate signed and
39 delivered under this subdivision shall not be deemed to effect a change
40 of location of the office of the limited liability company in whose
41 behalf such certificate is filed.

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

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

47 S 25. Subdivisions (c) and (e) of section 301 of the limited liability
48 company law, subdivision (e) as amended by chapter 643 of the laws of
49 1995, are amended to read as follows:

50 (c) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
51 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
52 AGENT OF A DOMESTIC LIMITED LIABILITY COMPANY OR FOREIGN LIMITED LIABIL-
53 ITY COMPANY SHALL BE DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR
54 WITHOUT THIS STATE, TO WHICH A PERSON SHALL MAIL A COPY OF PROCESS
55 SERVED AGAINST THE LIMITED LIABILITY COMPANY AS REQUIRED BY THIS ARTI-
56 CLE. Any designated post office address to which the secretary of state

1 OR A PERSON shall mail a copy of process served upon [him or her] THE
2 SECRETARY OF STATE as agent of a domestic limited liability company or a
3 foreign limited liability company shall continue until the filing of a
4 certificate under this chapter directing the mailing to a different post
5 office address.

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

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

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

25 (3) that sixty days prior to the filing of the certificate of resigna-
26 tion FOR RECEIPT OF PROCESS with the department of state the party has
27 sent a copy of the certificate of resignation for receipt of process by
28 registered or certified mail to the address of the registered agent of
29 the [designated] DESIGNATING limited liability company, if other than
30 the party filing the certificate of resignation[,] for receipt of proc-
31 ess, or if the [resigning] DESIGNATING limited liability company has no
32 registered agent, then to the last address of the [designated] DESIGNAT-
33 ING limited liability company known to the party, specifying the address
34 to which the copy was sent. If there is no registered agent and no known
35 address of the designating limited liability company, the party shall
36 attach an affidavit to the certificate stating that a diligent but
37 unsuccessful search was made by the party to locate the limited liabil-
38 ity company, specifying what efforts were made.

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

44 (ii) sent by or on behalf of the plaintiff to such limited LIABILITY
45 company by registered or certified mail with return receipt requested to
46 the last address of such limited liability company known to the plain-
47 tiff.

48 (ii) Where service of a copy of process was effected by mailing in
49 accordance with this section, proof of service shall be by affidavit of
50 compliance with this section filed, together with the process, within
51 thirty days after receipt of the return receipt signed by the limited
52 liability company or other official proof of delivery or of the original
53 envelope mailed. If a copy of the process is mailed in accordance with
54 this section, there shall be filed with the affidavit of compliance
55 either the return receipt signed by such limited LIABILITY company or
56 other official proof of delivery, if acceptance was refused by it, the

1 original envelope with a notation by the postal authorities that accept-
2 ance was refused. If acceptance was refused a copy of the notice and
3 process together with notice of the mailing by registered or certified
4 mail and refusal to accept shall be promptly sent to such limited
5 liability company at the same address by ordinary mail and the affidavit
6 of compliance shall so state. Service of process shall be complete ten
7 days after such papers are filed with the clerk of the court. The
8 refusal to accept delivery of the registered or certified mail or to
9 sign the return receipt shall not affect the validity of the service and
10 such limited liability company refusing to accept such registered or
11 certified mail shall be charged with knowledge of the contents thereof.

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

15 S 303. Service of process on limited liability companies. (a) Service
16 of process on the secretary of state as agent of a domestic limited
17 liability company [or], authorized foreign limited liability company, OR
18 OTHER BUSINESS ENTITY THAT HAS DESIGNATED THE SECRETARY OF STATE AS
19 AGENT FOR SERVICE OF PROCESS PURSUANT TO ARTICLE TEN OF THIS CHAPTER
20 shall be made by personally delivering to and leaving with the secretary
21 of state or [his or her] A deputy, or with any person authorized by the
22 secretary of state to receive such service, at the office of the depart-
23 ment of state in the city of Albany, [duplicate copies] A COPY of such
24 process together with the statutory fee, which fee shall be a taxable
25 disbursement. [Service of process on such limited liability company
26 shall be complete when the secretary of state is so served. The secre-
27 tary of state shall promptly send one of such copies by certified mail,
28 return receipt requested, to such limited liability company at the post
29 office address on file in the department of state specified for that
30 purpose.]

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

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

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

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

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

1 AND PROCESS TOGETHER WITH NOTICE OF THE MAILING BY CERTIFIED MAIL AND
2 REFUSAL TO ACCEPT SHALL BE PROMPTLY SENT TO SUCH LIMITED LIABILITY
3 COMPANY AT THE SAME ADDRESS BY ORDINARY MAIL AND THE AFFIDAVIT OF
4 COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL BE COMPLETE TEN DAYS
5 AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE COURT. THE REFUSAL TO
6 ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN THE RETURN RECEIPT
7 SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH LIMITED LIABILITY
8 COMPANY REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
9 KNOWLEDGE OF THE CONTENTS THEREOF. Nothing in this section shall limit
10 or affect the right to serve any process required or permitted by law to
11 be served upon a limited liability company in any other manner now or
12 hereafter permitted by law or applicable rules of procedure.

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

17 (1) the name of the foreign limited liability company and, if a
18 foreign LIMITED liability company's name is not acceptable for authori-
19 zation pursuant to section two hundred four of this chapter, the ficti-
20 tious name under which it proposes to apply for authority and do busi-
21 ness in this state, which name shall be in compliance with section two
22 hundred four of this chapter and shall be used by the foreign limited
23 liability company in all its dealings with the department of state and
24 in the conduct of its business in this state. The provisions of section
25 one hundred thirty of the general business law shall not apply to any
26 fictitious name filed by a foreign limited liability company pursuant to
27 this section, and a filing under section one hundred thirty of the
28 general business law shall not constitute the adoption of a fictitious
29 name;

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

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

37 S 804-A. Certificate of change. (a) A foreign limited liability compa-
38 ny may amend its application for authority from time to time to (i)
39 specify or change the location of the limited liability company's
40 office; (ii) specify or change the post office address to which [the
41 secretary of state] A PERSON shall mail a copy of any process against
42 the limited liability company served upon [him] THE SECRETARY OF STATE;
43 and (iii) to make, revoke or change the designation of a registered
44 agent, or to specify or change the address of a registered agent. Any
45 one or more such changes may be accomplished by filing a certificate of
46 change which shall be entitled "Certificate of Change of (name
47 of limited liability company) under section 804-A of the Limited Liabil-
48 ity Company Law" and shall be signed and delivered to the department of
49 state. It shall set forth:

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

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

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

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

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

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

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

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

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

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

52 (1) the name of the foreign professional service limited liability
53 company. A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY WHOSE
54 LIMITED LIABILITY COMPANY NAME IS NOT ACCEPTABLE FOR AUTHORIZATION
55 PURSUANT TO SECTION TWO HUNDRED FOUR OF THIS CHAPTER, MAY SUBMIT IN ITS
56 APPLICATION FOR AUTHORITY A FICTITIOUS NAME UNDER WHICH IT SHALL DO

1 BUSINESS IN THIS STATE. A FICTITIOUS NAME SUBMITTED PURSUANT TO THIS
2 SECTION SHALL BE SUBJECT TO THE PROVISIONS OF SECTION TWO HUNDRED FOUR
3 OF THIS CHAPTER. A FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPA-
4 NY AUTHORIZED TO DO BUSINESS IN THIS STATE UNDER A FICTITIOUS NAME
5 PURSUANT TO THIS SECTION SHALL USE SUCH FICTITIOUS NAME IN ALL OF ITS
6 DEALINGS WITH THE SECRETARY OF STATE AND IN THE CONDUCT OF ITS BUSINESS
7 IN THIS STATE. THE PROVISIONS OF SECTION ONE HUNDRED THIRTY OF THE
8 GENERAL BUSINESS LAW SHALL NOT APPLY TO ANY FICTITIOUS NAME FILED BY A
9 FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANY PURSUANT TO THIS
10 SECTION AND A FILING UNDER SECTION ONE HUNDRED THIRTY OF THE GENERAL
11 BUSINESS LAW SHALL NOT CONSTITUTE THE ADOPTION OF A FICTITIOUS NAME. If
12 the name does not end with the words "Professional Limited Liability
13 Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.",
14 "PLLC", "L.L.C." or "LLC", it shall in addition to the foregoing set
15 forth the name to be used in this state, ending with the words "Profes-
16 sional Limited Liability Company" or "Limited Liability Company" or the
17 abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC";

18 (5) the [city, incorporated village or town and the] county within
19 this state in which its office is to be located, OR IF IT SHALL MAINTAIN
20 MORE THAN ONE OFFICE IN THIS STATE, THE COUNTY WITHIN THE STATE IN WHICH
21 THE PRINCIPAL OFFICE OF THE FOREIGN PROFESSIONAL SERVICE LIMITED LIABIL-
22 ITY COMPANY IS TO BE LOCATED;

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

28 S 33-a. Paragraphs (a) and (c) of section 103 of the not-for-profit
29 corporation law, paragraph (a) as amended by chapter 807 of the laws of
30 1973 and paragraph (c) as amended by chapter 961 of the laws of 1972,
31 are amended to read as follows:

32 (a) Except as otherwise provided in this section, this chapter
33 applies to every domestic corporation as herein defined, and to every
34 foreign corporation as herein defined which is authorized to conduct or
35 which conducts any activities in this state. This chapter also applies
36 to any other domestic corporation or foreign corporation of any type or
37 kind to the extent, if any, provided under this chapter or any law
38 governing such corporation and, if no such provision for application is
39 made, to the extent, if any, that the membership corporations law
40 applied to such corporation as of the effective date of this chapter. A
41 corporation formed by a special act of this state which has as its prin-
42 cipal purpose an education purpose and which is a member of the univer-
43 sity of the state of New York, is an "education corporation" under
44 section two hundred sixteen-a of the education law.

45 To the extent that the membership corporations law or the general
46 corporation law applied to it as of the effective date of this chapter,
47 the corresponding provisions of this chapter apply to a corporation
48 heretofore formed by or pursuant to a special act of this state other
49 than a religious corporation or an "education corporation" under clause
50 (b) of subdivision one of section two hundred sixteen-a of the education
51 law, if (1) its principal purpose is a religious, charitable or educa-
52 tion purpose, and (2) it is operated, supervised or controlled by or in
53 connection with a religious organization. Any such corporation may
54 elect hereunder at any time after the effective date of this chapter to
55 file a RESTATED certificate of [type] INCORPORATION under section [one]
56 EIGHT hundred [thirteen (Certificate of type of not-for-profit corpo-

ration)] FIVE (RESTATED CERTIFICATE OF INCORPORATION). SUCH RESTATED CERTIFICATE OF INCORPORATION SHALL INCLUDE:

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

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

(3) THE CHAPTER AND YEAR OF THE SPECIAL ACT OF THE LEGISLATURE CREATING SUCH CORPORATION;

(4) THE CERTIFICATE OF INCORPORATION IN THE SAME MANNER AS IF NEWLY INCORPORATED PURSUANT TO SECTION FOUR HUNDRED TWO (CERTIFICATE OF INCORPORATION; CONTENTS), HOWEVER SUCH CERTIFICATE NEED NOT INCLUDE STATEMENTS AS TO THE INCORPORATOR OR INCORPORATORS, OR THE INITIAL DIRECTORS OF SUCH CORPORATION.

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

This chapter also applies to any other corporation of any type or kind, formed not for profit under any other chapter of the laws of this state except a chapter of the consolidated laws, to the extent that provisions of this chapter do not conflict with the provisions of such unconsolidated law. If an applicable provision of such unconsolidated law relates to a matter embraced in this chapter but is not in conflict therewith, both provisions shall apply. Any corporation to which this chapter is made applicable by this paragraph shall be treated as a "corporation" or "domestic corporation" as such terms are used in this chapter, except that the purposes of any such corporation formed or formable under such unconsolidated law shall not thereby be extended. For the purpose of this paragraph, the effective date of this chapter as to corporations to which this chapter is made applicable by this paragraph shall be September one, nineteen hundred seventy-three.

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

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

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

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

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

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

3 S 114. Visitation of supreme court.

4 [Type B and Type C corporations] CORPORATIONS, whether formed under
5 general or special laws, with their books and vouchers, shall be subject
6 to the visitation and inspection of a justice of the supreme court, or
7 of any person appointed by the court for that purpose. If it appears by
8 the verified petition of a member or creditor of any such corporation,
9 that it, or its directors, officers or agents, have misappropriated any
10 of the funds or property of the corporation, or diverted them from the
11 purpose of its incorporation, or that the corporation has acquired prop-
12 erty in excess of the amount which it is authorized by law to hold, or
13 has engaged in any business other than that stated in its certificate of
14 incorporation, the court may order that notice of at least eight days,
15 with a copy of the petition, be served on the corporation and the
16 persons charged with misconduct, requiring them to show cause at a time
17 and place specified, why they should not be required to make and file an
18 inventory and account of the property, effects and liabilities of such
19 corporation with a detailed statement of its transactions during the
20 twelve months next preceding the granting of such order. On the hearing
21 of such application, the court may make an order requiring such invento-
22 ry, account and statement to be filed, and proceed to take and state an
23 account of the property and liabilities of the corporation, or may
24 appoint a referee for that purpose. When such account is taken and
25 stated, after hearing all the parties to the application, the court may
26 enter a final order determining the amount of property so held by the
27 corporation, its annual income, whether any of the property or funds of
28 the corporation have been misappropriated or diverted to any other
29 purpose than that for which such corporation was incorporated, and
30 whether such corporation has been engaged in any activity not covered by
31 its certificate of incorporation. An appeal may be taken from the order
32 by any party aggrieved to the appellate division of the supreme court,
33 and to the court of appeals, as in a civil action. No corporation shall
34 be required to make and file more than one inventory and account in any
35 one year, nor to make a second account and inventory, while proceedings
36 are pending for the statement of an account under this section.

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

41 S 201. Purposes.

42 (a) A corporation, as defined in subparagraph (5)[,] OF paragraph (a)
43 of [S] SECTION 102 OF THIS CHAPTER (Definitions), may be formed under
44 this chapter as provided in paragraph (b) OF THIS SECTION unless it may
45 be formed under any other corporate law of this state in which event it
46 may not be formed under this chapter unless such other corporate law
47 expressly so provides.

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

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

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

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

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

14 (c) If a corporation is formed for purposes which are within both type
15 A and type B above, it is a type B corporation. If a corporation has
16 among its purposes any purpose which is within type C, such corporation
17 is a type C corporation. A type D corporation is subject to all
18 provisions of this chapter which are applicable to a type B corporation
19 under this chapter unless provided to the contrary in, and subject to
20 the contrary provisions of, the other corporate law authorizing forma-
21 tion under this chapter of the type D corporation].

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

25 (d) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
26 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
27 AGENT OF A DOMESTIC CORPORATION OR FOREIGN CORPORATION SHALL BE DEEMED
28 TO BE THE POST OFFICE ADDRESS, WITHIN OR WITHOUT THIS STATE, TO WHICH A
29 PERSON SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE CORPORATION AS
30 REQUIRED BY THIS ARTICLE. Any designated [post-office] POST OFFICE
31 address to which the secretary of state OR A PERSON shall mail a copy of
32 process served upon [him] THE SECRETARY OF STATE as agent of a domestic
33 corporation formed under article four of this chapter or foreign corpo-
34 ration, shall continue until the filing of a certificate under this
35 chapter directing the mailing to a different [post-office] POST OFFICE
36 address.

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

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

42 (B) SERVICE OF SUCH PROCESS UPON THE SECRETARY OF STATE AS AGENT OF A
43 DOMESTIC OR AUTHORIZED FOREIGN CORPORATION, OR OTHER BUSINESS ENTITY
44 THAT HAS DESIGNATED THE SECRETARY OF STATE AS AGENT FOR SERVICE OF PROC-
45 ESS PURSUANT TO ARTICLE NINE OF THIS CHAPTER, SHALL BE MADE BY
46 PERSONALLY DELIVERING TO AND LEAVING WITH THE SECRETARY OF STATE OR A
47 DEPUTY, OR WITH A PERSON AUTHORIZED BY THE SECRETARY OF STATE TO RECEIVE
48 SUCH SERVICE, AT THE OFFICE OF THE DEPARTMENT OF STATE IN THE CITY OF
49 ALBANY, A COPY OF SUCH PROCESS TOGETHER WITH THE STATUTORY FEE, WHICH
50 FEE SHALL BE A TAXABLE DISBURSEMENT. SUCH SERVICE SHALL BE SUFFICIENT IF
51 NOTICE OF SUCH SERVICE ON THE SECRETARY OF STATE AND A COPY OF THE PROC-
52 ESS ARE:

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

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

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

11 2. WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
12 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
13 COMPLIANCE WITH THIS SECTION, FILED TOGETHER WITH THE PROCESS, WITHIN
14 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE CORPO-
15 RATION, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE ORIGINAL ENVELOPE
16 MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORDANCE WITH THIS
17 SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF COMPLIANCE EITHER
18 THE RETURN RECEIPT SIGNED BY SUCH CORPORATION OR OTHER OFFICIAL PROOF OF
19 DELIVERY OR, IF ACCEPTANCE WAS REFUSED BY IT, THE ORIGINAL ENVELOPE WITH
20 A NOTATION BY THE POSTAL AUTHORITIES THAT ACCEPTANCE WAS REFUSED. IF
21 ACCEPTANCE WAS REFUSED, A COPY OF THE NOTICE AND PROCESS TOGETHER WITH
22 NOTICE OF THE MAILING BY CERTIFIED MAIL AND REFUSAL TO ACCEPT SHALL BE
23 PROMPTLY SENT TO SUCH CORPORATION AT THE SAME ADDRESS BY ORDINARY MAIL
24 AND THE AFFIDAVIT OF COMPLIANCE SHALL SO STATE. SERVICE OF PROCESS SHALL
25 BE COMPLETE TEN DAYS AFTER SUCH PAPERS ARE FILED WITH THE CLERK OF THE
26 COURT. THE REFUSAL TO ACCEPT DELIVERY OF THE CERTIFIED MAIL OR TO SIGN
27 THE RETURN RECEIPT SHALL NOT AFFECT THE VALIDITY OF THE SERVICE AND SUCH
28 CORPORATION REFUSING TO ACCEPT SUCH CERTIFIED MAIL SHALL BE CHARGED WITH
29 KNOWLEDGE OF THE CONTENTS THEREOF.

30 S 41. Subparagraphs 2, 4 and 6 of paragraph (a) of section 402 of the
31 not-for-profit corporation law, subparagraph 2 as amended by chapter 847
32 of the laws of 1970, subparagraph 4 as amended by chapter 679 of the
33 laws of 1985, and subparagraph 6 as added by chapter 564 of the laws of
34 1981 and as renumbered by chapter 132 of the laws of 1985, are amended
35 to read as follows:

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

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

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] THE state, to which [the secretary of
49 state] A PERSON shall mail a copy of any process against it served upon
50 [him] THE SECRETARY OF STATE.

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

53 (d) A member's capital contribution shall be evidenced by a capital
54 certificate [which shall be non-transferable, except that the certif-
55 icate of incorporation of a Type A corporation may provide that its
56 capital certificates, or some of them, may be transferable to other

members with the consent of the corporation upon specified terms and conditions]. A CAPITAL CERTIFICATE SHALL BE NON-TRANSFERABLE EXCEPT AS OTHERWISE PROVIDED IN THE CERTIFICATE OF INCORPORATION OF A CORPORATION THAT IS NOT ORGANIZED FOR CHARITABLE PURPOSES.

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

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

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

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

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

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

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

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

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

(7) 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 49. Subparagraph 2 of paragraph (c) of section 802 of the not-for-profit corporation law, as amended by chapter 186 of the laws of 1983, 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.

S 50. Subparagraphs 3 and 6 of paragraph (a) of section 803 of the not-for-profit corporation law, paragraphs 3 and 6 as amended by chapter

1 168 of the laws of 1982 and paragraph 6 as renumbered by chapter 145 of
2 the laws of 1983, are amended to read as follows:

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

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

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

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

37 S 52. Subparagraph (ii) of paragraph (a) of section 804 of the not-
38 for-profit corporation law, as amended by chapter 139 of the laws of
39 1993, is amended to read as follows:

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

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

51 (E) 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 paragraph
53 (b) of section 306 (Service of process), in any action or special
54 proceeding described in [subparagraph] CLAUSE (D) OF THIS SUBPARAGRAPH
55 and a post office address, within or without this state, to which [the

1 secretary of state] A PERSON shall mail a copy of the process in such
2 action or special proceeding SERVED UPON THE SECRETARY OF STATE.

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

5 (a) [Where any constituent corporation or the consolidated corporation
6 is, or would be if formed under this chapter, a Type B or a Type C
7 corporation under section 201 (Purposes) of this chapter, no] NO certif-
8 icate shall be filed pursuant to section 904 (Certificate of merger or
9 consolidation; contents) or section 906 (Merger or consolidation of
10 domestic and foreign corporations) until an order approving the plan of
11 merger or consolidation and authorizing the filing of the certificate
12 has been made by the supreme court, as provided in this section. A
13 certified copy of such order shall be annexed to the certificate of
14 merger or consolidation. Application for the order may be made in the
15 judicial district in which the principal office of the surviving or
16 consolidated corporation is to be located, or in which the office of one
17 of the domestic constituent corporations is located. The application
18 shall be made by all the constituent corporations jointly and shall set
19 forth by affidavit (1) the plan of merger or consolidation, (2) the
20 approval required by section 903 (Approval of plan) or paragraph (b) of
21 section 906 (Merger or consolidation of domestic and foreign corpo-
22 rations) for each constituent corporation, (3) the objects and purposes
23 of each such corporation to be promoted by the consolidation, (4) a
24 statement of all property, and the manner in which it is held, and of
25 all liabilities and of the amount and sources of the annual income of
26 each such corporation, (5) whether any votes against adoption of the
27 resolution approving the plan of merger or consolidation were cast at
28 the meeting at which the resolution as adopted by each constituent
29 corporation, and (6) facts showing that the consolidation is authorized
30 by the laws of the jurisdictions under which each of the constituent
31 corporations is incorporated.

32 (c) If the court shall find that any of the assets of any of the
33 constituent corporations are held for [a] ANY purpose specified [as Type
34 B] in paragraph (b) of section 201 or are legally required to be used
35 for a particular purpose, but not upon a condition requiring return,
36 transfer or conveyance by reason of the merger or consolidation, the
37 court may, in its discretion, direct that such assets be transferred or
38 conveyed to the surviving or consolidated corporation subject to such
39 purpose or use, or that such assets be transferred or conveyed to the
40 surviving or consolidated corporation or to one or more other domestic
41 or foreign corporations or organizations engaged in substantially simi-
42 lar activities, upon an express trust the terms of which shall be
43 approved by the court.

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

47 (a) One or more domestic or foreign corporations [which is, or would
48 be if formed under this chapter, a type A or type C corporation under
49 section 201 (Purposes)] may be merged or consolidated into a domestic or
50 foreign corporation which is, or would be if formed under the laws of
51 this state, a corporation formed under the business corporation law of
52 this state if such merger or consolidation is not contrary to the law of
53 the state of incorporation of any constituent corporation. With respect
54 to such merger or consolidation, any reference in paragraph (b) of
55 section 901 [of this article] (POWER OF MERGER OR CONSOLIDATION) or
56 paragraph (b) of section 901 of the business corporation law to a corpo-

1 ration shall, unless the context otherwise requires, include both domes-
2 tic and foreign corporations.

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

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

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

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

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

29 (3) if there are assets received and held by the corporation [either]
30 for a purpose specified [as Type B] in paragraph (b) of section 201
31 (Purposes) or which are legally required to be used for a particular
32 purpose, a statement that the assets owned by the corporation, subject
33 to any unpaid liabilities of the corporation, shall be distributed as
34 required by any gift instrument or to a charitable organization or
35 organizations exempt from taxation pursuant to federal and state laws
36 and engaged in activities substantially similar to those of the
37 dissolved corporation. Each such recipient organization shall be iden-
38 tified and the governing instrument and amendments thereto of each of
39 the proposed recipient organizations shall be annexed to such statement,
40 along with the financial reports of each recipient organization for the
41 last three years and a sworn affidavit from a director and officer of
42 each recipient organization stating the purposes of the organization,
43 and that it is currently exempt from federal income taxation.

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

47 (a) Upon adopting a plan of dissolution and distribution of assets,
48 the board shall submit it to a vote of the members, if any, and such
49 plan shall be approved at a meeting of members by two-thirds vote as
50 provided in paragraph (c) of section 613 (Vote of members); provided,
51 however, that if the corporation [is a Type B, C or D corporation],
52 other than a corporation incorporated pursuant to article 15 (Public
53 cemetery corporations), [and] has no assets to distribute, other than a
54 reserve not to exceed twenty-five thousand dollars for the purpose of
55 paying ordinary and necessary expenses of winding up its affairs includ-
56 ing attorney and accountant fees, and liabilities not in excess of ten

1 thousand dollars at the time of adoption of the plan of dissolution, the
2 vote required by the corporation's board of directors for adoption of
3 the plan of dissolution of such a corporation or by the corporation's
4 members for the authorization thereof shall be:

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

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

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

19 Notice of a special or regular meeting of the board of directors or of
20 the members entitled to vote on adoption and authorization or approval
21 of the plan of dissolution shall be sent to all the directors and
22 members of record entitled to vote. Unless otherwise directed by order
23 of the supreme court pursuant to section 608 [of this chapter] (QUORUM
24 AT MEETING OF MEMBERS), the notice shall be sent by certified mail,
25 return receipt requested, to the last known address of record of each
26 director and member not fewer than thirty, and not more than sixty days
27 before the date of each meeting provided, however, that if the last
28 known address of record of any director or member is not within the
29 United States, the notice to such director shall be sent by any other
30 reasonable means.

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

34 (c) Whenever a statute creating, or authorizing the formation of, a
35 corporation requires approval by a governmental body or officer for the
36 formation of such corporation, dissolution shall not be authorized with-
37 out the approval of such body or officer.

38 (d) The plan of dissolution and distribution of assets shall have
39 annexed thereto the approval of a justice of the supreme court in the
40 judicial district in which the office of the corporation is located [in
41 the case of a Type B, C or D corporation, and in the case of any other
42 corporation which holds assets at the time of dissolution legally
43 required to be used for a particular purpose,] except that no such
44 approval shall be required with respect to the plan of dissolution of a
45 corporation, other than a corporation incorporated pursuant to article
46 15 (Public cemetery corporations), which has no assets to distribute at
47 the time of dissolution, other than a reserve not to exceed twenty-five
48 thousand dollars for the purpose of paying ordinary and necessary
49 expenses of winding up its affairs including attorney and accountant
50 fees, and liabilities not in excess of ten thousand dollars, and which
51 has complied with the requirements of section 1001 (Plan of dissolution
52 and distribution of assets) and this section applicable to such a corpo-
53 ration. Application to the supreme court for an order for such approval
54 shall be by verified petition, with the plan of dissolution and distrib-
55 ution of assets and certified copies of the consents prescribed by this
56 section annexed thereto, and upon ten days written notice to the attor-

1 ney general accompanied by copies of such petition, plan and consents.
2 In such case where approval of a justice of the supreme court is not
3 required [for a Type B, C or D corporation,] a copy of such plan certi-
4 fied under penalties of perjury shall be filed with the attorney general
5 within ten days after its authorization.

6 S 58. Subparagraph 1 of paragraph (c) of section 1002-a of the not-
7 for-profit corporation law, as amended by chapter 434 of the laws of
8 2006, is amended to read as follows:

9 (1) assets received and held by the corporation [either for a purpose
10 specified as Type B in paragraph (b) of section 201 (Purposes) or which
11 are legally required to be used for a particular purpose,] shall be
12 distributed to one or more domestic or foreign corporations or other
13 organizations engaged in activities substantially similar to those of
14 the dissolved corporation pursuant to the plan of dissolution and
15 distribution or, if applicable, as ordered by the court to which such
16 plan is submitted for approval under section 1002 (Authorization of
17 plan). Any disposition of assets contained in a will or other instru-
18 ment, in trust or otherwise, made before or after the dissolution, to or
19 for the benefit of any corporation so dissolved shall inure to or for
20 the benefit of the corporation or organization acquiring such assets of
21 the dissolved corporation as provided in this section, and so far as is
22 necessary for that purpose the corporation or organization acquiring
23 such disposition shall be deemed a successor to the dissolved corpo-
24 ration with respect to such assets; provided, however, that such dispo-
25 sition shall be devoted by the acquiring corporation or organization to
26 the purposes intended by the testator, donor or grantor.

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

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

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

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

38 (15) Where assets were received and held by the corporation either for
39 a purpose specified [as Type B] in paragraph (b) of section 201
40 (Purposes), or were legally required to be used for a particular
41 purpose, the distribution of such assets to one or more domestic or
42 foreign corporations or other organizations engaged in activities
43 substantially similar to those of the dissolved corporation, on notice
44 to the attorney general and to such other persons, and in such manner,
45 as the court may deem proper.

46 S 62. Subparagraph 6 of paragraph (a) and paragraph (h) of section
47 1012 of the not-for-profit corporation law are REPEALED.

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

50 S 1302. Application to existing authorized foreign corporations.

51 Every foreign corporation which on the effective date of this chapter
52 is authorized to conduct activities in this state under a certificate of
53 authority heretofore issued to it by the secretary of state shall
54 continue to have such authority. Such foreign corporation, its members,
55 directors, and officers shall have the same rights, franchises, and
56 privileges and shall be subject to the same limitations, restrictions,

1 liabilities, and penalties as a foreign corporation authorized under
2 this chapter, its members, directors, and officers respectively. [A
3 foreign corporation may by amendment to its certificate of authority set
4 forth the type of corporation it is under section 201 (Purposes); and in
5 the absence of such amendment an authorized foreign corporation shall be
6 a Type B corporation.] Reference in this chapter to an application for
7 authority shall, unless the context otherwise requires, include the
8 statement and designation and any amendment thereof required to be filed
9 by the secretary of state under prior statutes to obtain a certificate
10 of authority.

11 S 64. Intentionally omitted.

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

16 (4) That the corporation is a foreign corporation as defined in
17 subparagraph [(a)] (7) OF PARAGRAPH (A) of section 102 (Definitions);
18 [the type of corporation it shall be under section 201 (Purposes);] a
19 statement of its purposes to be pursued in this state and of the activ-
20 ities which it proposes to conduct in this state; a statement that it is
21 authorized to conduct those activities in the jurisdiction of its incor-
22 poration; and in the case of a [Type C] corporation THAT WILL PURSUE ANY
23 LAWFUL BUSINESS PURPOSE OR PURPOSES IN THIS STATE, the lawful public or
24 quasi-public objective which each business purpose will achieve.

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

30 S 66. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
31 profit corporation law, as renumbered by chapter 186 of the laws of
32 1983, is amended to read as follows:

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

36 S 67. Subparagraph 2 of paragraph (a) and paragraph (c) of section
37 1310 of the not-for-profit corporation law, paragraph (c) as amended by
38 chapter 172 of the laws of 1999, are amended to read as follows:

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

42 (c) A certificate of change of application for authority which changes
43 only the post office address to which [the secretary of state] A PERSON
44 shall mail a copy of any process against an authorized foreign corpo-
45 ration served upon [him] THE SECRETARY OF STATE or which changes the
46 address of its registered agent, provided such address is the address of
47 a person, partnership, LIMITED LIABILITY COMPANY or other corporation
48 whose address, as agent, is the address to be changed or who has been
49 designated as registered agent for such authorized foreign corporation,
50 may be signed and delivered to the department of state by such agent.
51 The certificate of change of application for authority shall set forth
52 the statements required under subparagraphs (1), (2), (3) and (4) of
53 paragraph (b) of this section; that a notice of the proposed change was
54 mailed by the party signing the certificate to the authorized foreign
55 corporation not less than thirty days prior to the date of delivery to
56 the department and that such corporation has not objected thereto; and

1 that the party signing the certificate is the agent of such foreign
2 corporation to whose address [the secretary of state] A PERSON is
3 required to mail copies of process SERVED ON THE SECRETARY OF STATE or
4 the registered agent, if such be the case. A certificate signed and
5 delivered under this paragraph shall not be deemed to effect a change of
6 location of the office of the corporation in whose behalf such certifi-
7 cate is filed.

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

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

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

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

19 S 1312. Termination of existence.

20 When an authorized foreign corporation is dissolved or its authority
21 or existence is otherwise terminated or cancelled in the jurisdiction of
22 its incorporation or when such foreign corporation is merged into or
23 consolidated with another foreign corporation, a certificate of the
24 secretary of state, or official performing the equivalent function as to
25 corporate records, of the jurisdiction of incorporation of such foreign
26 corporation attesting to the occurrence of any such event or a certified
27 copy of an order or decree of a court of such jurisdiction directing the
28 dissolution of such foreign corporation, the termination of its exist-
29 ence or the cancellation of its authority shall be delivered to the
30 department of state. The filing of the certificate, order or decree
31 shall have the same effect as the filing of a certificate of surrender
32 of authority under section 1311 (Surrender of authority). The secretary
33 of state shall continue as agent of the foreign corporation 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 based upon any liability or obligation incurred by the
37 foreign corporation within this state prior to the filing of such
38 certificate, order or decree and [he] THE PERSON SERVING SUCH PROCESS
39 shall promptly cause a copy of any such process to be mailed by [regis-
40 tered] CERTIFIED mail, return receipt requested, to such foreign corpo-
41 ration at the post office address on file in [his] THE office OF THE
42 SECRETARY OF STATE specified for such purpose. The post office address
43 may be changed by signing and delivering to the department of state a
44 certificate of change setting forth the statements required under
45 section 1310 (Certificate of change, contents) to effect a change in the
46 post office address under subparagraph [(a)] (4) OF PARAGRAPH (A) of
47 section 1308 (Amendments or changes).

48 S 70. Subparagraphs 1, 2 and 3 of paragraph (a) of section 1321 of the
49 not-for-profit corporation law, as amended by chapter 847 of the laws of
50 1970, are amended to read as follows:

51 [(1)] The [corporation is a Type A corporation under this chapter;
52 its] CORPORATION'S principal activities are conducted outside this
53 state; [the greater part of its property is located outside this state;]
54 and (1) less than one third of its members are residents of this state;
55 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (c) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF
41 STATE SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF
42 STATE AS AGENT OF A DOMESTIC LIMITED PARTNERSHIP OR FOREIGN LIMITED
43 PARTNERSHIP SHALL BE DEEMED TO BE THE POST OFFICE ADDRESS, WITHIN OR
44 WITHOUT THIS STATE, TO WHICH A PERSON SHALL MAIL A COPY OF PROCESS
45 SERVED AGAINST THE LIMITED PARTNERSHIP AS REQUIRED BY THIS ARTICLE. Any
46 designated post office address to which the secretary of state OR A
47 PERSON shall mail a copy of process served upon [him] THE SECRETARY OF
48 STATE as agent of a domestic limited partnership or foreign limited
49 partnership shall continue until the filing of a certificate under this
50 article directing the mailing to a different post office address.

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

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

(2) that the address of the party has been designated by the limited 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 partnership, 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 [designated] DESIGNATING limited partnership, if other than the party filing the certificate of resignation[,] for receipt of process, or if the [resigning] DESIGNATING limited partnership has no registered agent, then to the last address of the [designated] DESIGNATING limited 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 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 partnership, specifying what efforts were made.

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

(A) (1) SERVICE OF SUCH PROCESS UPON THE SECRETARY OF STATE AS AGENT OF A DOMESTIC OR AUTHORIZED FOREIGN LIMITED PARTNERSHIP, OR OTHER BUSINESS ENTITY THAT HAS DESIGNATED THE SECRETARY OF STATE AS AGENT FOR SERVICE OF PROCESS PURSUANT TO 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:

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

(II) SENT BY OR ON BEHALF OF THE PLAINTIFF TO SUCH LIMITED PARTNERSHIP 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.

(2) 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.

(3) 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 LIMITED PARTNERSHIP, 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 LIMITED PARTNERSHIP 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

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

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

12 (3) a designation of the secretary of state as agent of the limited
13 partnership upon whom process against it may be served and the 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 against it served upon
16 [him] THE SECRETARY OF STATE;

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

20 (4) a change in the name of the limited partnership, or a change in
21 the post office address to which [the secretary of state] A PERSON shall
22 mail a copy of any process against the limited partnership served on
23 [him] THE SECRETARY OF STATE, or a change in the name or address of the
24 registered agent, if such change is made other than pursuant to section
25 121-104 or 121-105 of this article.

26 S 89. Section 121-202-A of the partnership law, as added by chapter
27 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
28 chapter 172 of the laws of 1999, is amended to read as follows:

29 S 121-202-A. Certificate of change. (a) A certificate of limited part-
30 nership may be changed by filing with the department of state a certif-
31 icate of change entitled "Certificate of Change of (name of limit-
32 ed partnership) under Section 121-202-A of the Revised Limited
33 Partnership Act" and shall be signed and delivered to the department of
34 state. A certificate of change may (i) specify or change the location of
35 the limited partnership's office; (ii) specify or change the post office
36 address to which [the secretary of state] A PERSON shall mail a copy of
37 process against the limited partnership served upon [him] THE SECRETARY
38 OF STATE; and (iii) make, revoke or change the designation of a regis-
39 tered agent, or to specify or change the address of its registered
40 agent. It shall set forth:

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

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

45 (3) each change effected thereby.

46 (b) A certificate of change which changes only the post office address
47 to which [the secretary of state] A PERSON shall mail a copy of any
48 process against a limited partnership served upon [him] THE SECRETARY OF
49 STATE or the address of the registered agent, provided such address
50 being changed is the address of a person, partnership, LIMITED LIABILITY
51 COMPANY or corporation whose address, as agent, is the address to be
52 changed or who has been designated as registered agent for such limited
53 partnership shall be signed and delivered to the department of state by
54 such agent. The certificate of change shall set forth the statements
55 required under subdivision (a) of this section; that a notice of the
56 proposed change was mailed to the domestic limited partnership by the

1 party signing the certificate not less than thirty days prior to the
2 date of delivery to the department of state and that such domestic
3 limited partnership has not objected thereto; and that the party signing
4 the certificate is the agent of such limited partnership to whose
5 address [the secretary of state] A PERSON is required to mail [copies] A
6 COPY of process SERVED ON THE SECRETARY OF STATE or the registered
7 agent, if such be the case. A certificate signed and delivered under
8 this subdivision shall not be deemed to effect a change of location of
9 the office of the limited partnership in whose behalf such certificate
10 is filed.

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

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

19 S 91. Section 121-903-A of the partnership law, as added by chapter
20 448 of the laws of 1998, is amended to read as follows:

21 S 121-903-A. Certificate of change. (a) A foreign limited partnership
22 may change its application for authority by filing with the department
23 of state a certificate of change entitled "Certificate of Change
24 of (name of limited partnership) under Section 121-903-A of the
25 Revised Limited Partnership Act" and shall be signed and delivered to
26 the department of state. A certificate of change may (i) change the
27 location of the limited partnership's office; (ii) change the post
28 office address to which [the secretary of state] A PERSON shall mail a
29 copy of process against the limited partnership served upon [him] THE
30 SECRETARY OF STATE; and (iii) make, revoke or change the designation of
31 a registered agent, or to specify or change the address of its regis-
32 tered agent. It shall set forth:

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

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

38 (3) each change effected thereby.

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

1 ered under this subdivision shall not be deemed to effect a change of
2 location of the office of the limited partnership in whose behalf such
3 certificate is filed.

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

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

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

13 (7) A designation of the secretary of state as its agent upon whom
14 process against it may be served in the manner set forth in section
15 121-109 of this article in any action or special proceeding, and a post
16 office address, within or without this state, to which [the secretary of
17 state] A PERSON shall mail a copy of any process served upon [him] THE
18 SECRETARY OF STATE. Such post office address shall supersede any prior
19 address designated as the address to which process shall be mailed.

20 S 94. Subparagraphs 2 and 4 of paragraph (I) of subdivision (a) of
21 section 121-1500 of the partnership law, subparagraph 2 as added by
22 chapter 576 of the laws of 1994 and subparagraph 4 as amended by chapter
23 643 of the laws of 1995 and such paragraph as redesignated by chapter
24 767 of the laws of 2005, are amended to read as follows:

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

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

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

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

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

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

7 (a) In order for a foreign limited liability partnership to carry on
8 or conduct or transact business or activities as a New York registered
9 foreign limited liability partnership in this state, such foreign limit-
10 ed liability partnership shall file with the department of state a
11 notice which shall set forth: (i) the name under which the foreign
12 limited liability partnership intends to carry on or conduct or transact
13 business or activities in this state; (ii) the date on which and the
14 jurisdiction in which it registered as a limited liability partnership;
15 (iii) the address, WITHIN THIS STATE, of the principal office of the
16 foreign limited liability partnership; (iv) the profession or
17 professions to be practiced by such foreign limited liability partner-
18 ship and a statement that it is a foreign limited liability partnership
19 eligible to file a notice under this chapter; (v) a designation of the
20 secretary of state as agent of the foreign limited liability partnership
21 upon whom process against it may be served and the post office address,
22 within or without this state, to which [the secretary of state] A PERSON
23 shall mail a copy of any process against it [or] served upon [it] THE
24 SECRETARY OF STATE; (vi) if the foreign limited liability partnership is
25 to have a registered agent, its name and address in this state and a
26 statement that the registered agent is to be the agent of the foreign
27 limited liability partnership upon whom process against it may be
28 served; (vii) a statement that its registration as a limited liability
29 partnership is effective in the jurisdiction in which it registered as a
30 limited liability partnership at the time of the filing of such notice;
31 (viii) a statement that the foreign limited liability partnership is
32 filing a notice in order to obtain status as a New York registered
33 foreign limited liability partnership; (ix) if the registration of the
34 foreign limited liability partnership is to be effective on a date later
35 than the time of filing, the date, not to exceed sixty days from the
36 date of filing, of such proposed effectiveness; and (x) any other
37 matters the foreign limited liability partnership determines to include
38 in the notice. Such notice shall be accompanied by either (1) a copy of
39 the last registration or renewal registration (or similar filing), if
40 any, filed by the foreign limited liability partnership with the juris-
41 diction where it registered as a limited liability partnership or (2) a
42 certificate, issued by the jurisdiction where it registered as a limited
43 liability partnership, substantially to the effect that such foreign
44 limited liability partnership has filed a registration as a limited
45 liability partnership which is effective on the date of the certificate
46 (if such registration, renewal registration or certificate is in a
47 foreign language, a translation thereof under oath of the translator
48 shall be attached thereto). Such notice shall also be accompanied by a
49 fee of two hundred fifty dollars.

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

53 (i-1) A certificate of change which changes only the post office
54 address to which the secretary of state shall mail a copy of any process
55 against a New York registered foreign limited liability partnership
56 served upon him or the address of the registered agent, provided such

1 address being changed is the address of a person, partnership, LIMITED
2 LIABILITY COMPANY or corporation whose address, as agent, is the address
3 to be changed or who has been designated as registered agent of such
4 registered foreign limited liability partnership shall be signed and
5 delivered to the department of state by such agent. The certificate of
6 change shall set forth: (i) the name of the New York registered foreign
7 limited liability partnership; (ii) the date of filing of its initial
8 registration or notice statement; (iii) each change effected thereby;
9 (iv) that a notice of the proposed change was mailed to the limited
10 liability partnership by the party signing the certificate not less than
11 thirty days prior to the date of delivery to the department of state and
12 that such limited liability partnership has not objected thereto; and
13 (v) that the party signing the certificate is the agent of such limited
14 liability partnership to whose address [the secretary of state] A PERSON
15 is required to mail [copies] A COPY of process SERVED ON THE SECRETARY
16 OF STATE or the registered agent, if such be the case. A certificate
17 signed and delivered under this subdivision shall not be deemed to
18 effect a change of location of the office of the limited liability part-
19 nership in whose behalf such certificate is filed. The certificate of
20 change shall be accompanied by a fee of five dollars.

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

24 (A) (1) SERVICE OF PROCESS ON THE SECRETARY OF STATE AS AGENT OF A
25 REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
26 LIMITED LIABILITY PARTNERSHIP UNDER THIS ARTICLE 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 (I) DELIVERED PERSONALLY, WITHIN OR WITHOUT THE STATE, TO SUCH REGIS-
35 TERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN
36 LIMITED LIABILITY PARTNERSHIP BY A PERSON AND IN THE MANNER AUTHORIZED
37 TO SERVE PROCESS BY LAW OF THE JURISDICTION IN WHICH SERVICE IS MADE, OR

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

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

49 (3) WHERE SERVICE OF A COPY OF PROCESS WAS EFFECTED BY MAILING IN
50 ACCORDANCE WITH THIS SECTION, PROOF OF SERVICE SHALL BE BY AFFIDAVIT OF
51 COMPLIANCE WITH THIS SECTION FILED, TOGETHER WITH THE PROCESS, WITHIN
52 THIRTY DAYS AFTER RECEIPT OF THE RETURN RECEIPT SIGNED BY THE REGISTERED
53 LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED
54 LIABILITY PARTNERSHIP, OR OTHER OFFICIAL PROOF OF DELIVERY OR OF THE
55 ORIGINAL ENVELOPE MAILED. IF A COPY OF THE PROCESS IS MAILED IN ACCORD-
56 ANCE WITH THIS SECTION, THERE SHALL BE FILED WITH THE AFFIDAVIT OF

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

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

25 (E) ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE
26 SHALL MAIL A COPY OF ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS
27 AGENT OF A REGISTERED LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGIS-
28 TERED FOREIGN LIMITED LIABILITY PARTNERSHIP SHALL BE DEEMED TO BE THE
29 POST OFFICE ADDRESS, WITHIN OR WITHOUT THE STATE, TO WHICH A PERSON
30 SHALL MAIL A COPY OF PROCESS SERVED AGAINST THE REGISTERED LIMITED
31 LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED LIABILITY
32 PARTNERSHIP AS REQUIRED BY THIS ARTICLE. ANY DESIGNATED POST OFFICE
33 ADDRESS TO WHICH THE SECRETARY OF STATE OR A PERSON SHALL MAIL A COPY OF
34 ANY PROCESS SERVED UPON THE SECRETARY OF STATE AS AGENT OF A REGISTERED
35 LIMITED LIABILITY PARTNERSHIP OR NEW YORK REGISTERED FOREIGN LIMITED
36 LIABILITY PARTNERSHIP SHALL CONTINUE UNTIL THE FILING OF A CERTIFICATE
37 UNDER THIS CHAPTER DIRECTING THE MAILING TO A DIFFERENT POST OFFICE
38 ADDRESS.

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

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

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

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

55 (3) That sixty days prior to the filing of the certificate of resigna-
56 tion with the department of state the party has sent a copy of the

1 certificate of resignation for receipt of process by registered or
2 certified mail to the address of the registered agent of the [desig-
3 nated] DESIGNATING limited liability partnership, if other than the
4 party filing the certificate of resignation[,] for receipt of process,
5 or if the [resigning] DESIGNATING limited liability partnership has no
6 registered agent, then to the last address of the [designated] DESIGNAT-
7 ING limited liability partnership, known to the party, specifying the
8 address to which the copy was sent. If there is no registered agent and
9 no known address of the designating limited liability partnership the
10 party shall attach an affidavit to the certificate stating that a dili-
11 gent but unsuccessful search was made by the party to locate the limited
12 liability partnership, specifying what efforts were made.

13 (4) That the [designated] DESIGNATING limited liability partnership is
14 required to deliver to the department of state a certificate of amend-
15 ment providing for the designation by the limited liability partnership
16 of a new address and that upon its failure to file such certificate, its
17 authority to do business in this state shall be suspended.

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

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

26 S 101. Subdivision 2 of section 2-b of the religious corporations law
27 is REPEALED.

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

30

PART DD

31 Section 1. Subdivision 4 of section 1896 of the public authorities
32 law, as added by chapter 388 of the laws of 2011, is amended and a new
33 subdivision 5 is added to read as follows:

34 4. [(a)] Qualified energy efficiency services [repaid through an
35 on-bill recovery mechanism] THAT HAVE BEEN PAID FOR IN WHOLE OR IN PART
36 WITH THE PROCEEDS OF A LOAN UNDER THIS TITLE shall be considered a
37 special energy project pursuant to section eighteen hundred fifty-one of
38 this article. [The New York state energy research and development
39 authority shall secure every loan issued for such services that are to
40 be repaid through an on-bill recovery mechanism with a mortgage upon the
41 real property that is improved by such services. Such mortgage shall be
42 recorded pursuant to section two hundred ninety-one-d of the real prop-
43 erty law.

44 (b) All terms and provisions of a green jobs-green New York mortgage
45 pursuant to this subdivision shall be subject and subordinate to the
46 lien of any mortgage or mortgages on such property. When a subsequent
47 purchaser of the property is granted a mortgage, the green jobs-green
48 New York mortgage shall be subordinate to the terms of that mortgage.

49 (c) The mortgagee shall not retain any right to enforce payment or
50 foreclose upon the property.]

51 5. (A) FOR EACH LOAN ISSUED FOR QUALIFIED ENERGY EFFICIENCY SERVICES
52 THAT IS TO BE REPAID THROUGH AN ON-BILL RECOVERY MECHANISM, THE NEW YORK
53 STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL RECORD, PURSUANT
54 TO ARTICLE NINE OF THE REAL PROPERTY LAW, IN THE OFFICE OF THE APPROPRI-

1 ATE RECORDING OFFICER, A DECLARATION WITH RESPECT TO THE PROPERTY
2 IMPROVED BY SUCH SERVICES OF THE EXISTENCE OF THE LOAN AND STATING THE
3 TOTAL AMOUNT OF THE LOAN, THE TERM OF THE LOAN, AND THAT THE LOAN IS
4 BEING REPAID THROUGH A CHARGE ON AN ELECTRIC OR GAS METER ASSOCIATED
5 WITH THE PROPERTY. THE DECLARATION SHALL FURTHER STATE THAT IT IS BEING
6 FILED PURSUANT TO THIS SECTION AND, UNLESS FULLY SATISFIED PRIOR TO SALE
7 OR TRANSFER OF THE PROPERTY, THE LOAN REPAYMENT UTILITY METER CHARGE
8 SHALL SURVIVE CHANGES IN OWNERSHIP, TENANCY, OR METER ACCOUNT RESPONSIBI-
9 BILITY AND, UNTIL FULLY SATISFIED, SHALL CONSTITUTE THE OBLIGATION OF
10 THE PERSON RESPONSIBLE FOR THE METER ACCOUNT. SUCH DECLARATION SHALL NOT
11 CONSTITUTE A MORTGAGE AND SHALL NOT CREATE ANY SECURITY INTEREST OR LIEN
12 ON THE PROPERTY. UPON SATISFACTION OF THE LOAN, THE AUTHORITY SHALL FILE
13 A DECLARATION OF REPAYMENT PURSUANT TO ARTICLE NINE OF THE REAL PROPERTY
14 LAW.

15 (B) THE RECORDING OFFICER SHALL RECORD SUCH DECLARATIONS IN THE SAME
16 BOOK, PROVIDED UNDER SECTION THREE HUNDRED FIFTEEN OF THE REAL PROPERTY
17 LAW, IN WHICH SUCH RECORDING OFFICER RECORDS DEEDS.

18 S 2. The real property law is amended by adding a new section 291-j to
19 read as follows:

20 S 291-J. RECORDING OF DECLARATIONS BY THE NEW YORK STATE ENERGY
21 RESEARCH AND DEVELOPMENT AUTHORITY. PURSUANT TO SUBDIVISION FIVE OF
22 SECTION EIGHTEEN HUNDRED NINETY-SIX OF THE PUBLIC AUTHORITIES LAW, THE
23 NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL RECORD OR
24 CAUSE TO BE RECORDED, IN THE OFFICE OF THE APPROPRIATE RECORDING OFFI-
25 CER, A DECLARATION EVIDENCING THE EXISTENCE OF A LOAN AS DESCRIBED THER-
26 EIN AND, UPON SATISFACTION OF SUCH LOAN, SUCH AUTHORITY SHALL FILE A
27 DECLARATION OF REPAYMENT AND FULL SATISFACTION OF THE LOAN REPAYMENT
28 UTILITY METER CHARGE. THE RECORDING OFFICER SHALL RECORD SUCH DECLARA-
29 TIONS IN THE SAME BOOK, PROVIDED UNDER SECTION THREE HUNDRED FIFTEEN OF
30 THE REAL PROPERTY LAW, IN WHICH SUCH RECORDING OFFICER RECORDS DEEDS.

31 S 3. This act shall take effect immediately.

32 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
33 sion, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair, or invalidate the remainder thereof, but shall be confined in
36 its operation to the clause, sentence, paragraph, subdivision, section
37 or part thereof directly involved in the controversy in which such judg-
38 ment shall have been rendered. It is hereby declared to be the intent of
39 the legislature that this act would have been enacted even if such
40 invalid provisions had not been included herein.

41 S 3. This act shall take effect immediately provided, however, that
42 the applicable effective date of Parts A through DD of this act shall be
43 as specifically set forth in the last section of such Parts.