

Third Extraordinary Session

I N S E N A T E

June 24, 2009

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to municipal cooperative health benefit plans, a study of community rating and the provision of claims experience to a municipality (Part A); to amend the general municipal law and the highway law, in relation to mutual aid (Part B); to amend the public health law, in relation to the composition of county and part-county boards of health (Part C); to amend the general municipal law, in relation to purchasing requirements (Part D); to amend the public authorities law and the local finance law, in relation to authorizing certain bonds to be issued or purchased by the municipal bond bank agency (Part E); and to amend the civil practice law and rules, in relation to treating public and private defendants equally when considering the impact of collateral source payments in tort claims for personal injury, property damage or wrongful death; to amend the general obligations law, in relation to protecting parties to the settlement of a tort claim from certain unwarranted lien, reimbursement and subrogation claims; and to repeal certain provisions of the civil practice law and rules relating to collateral source payments (Part F)

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

1 Section 1. Each component of this act is wholly contained within a
2 Part identified as Parts A through F. The effective date for each
3 particular provision contained within such Part is set forth in the last
4 section of such Part. Any provision in any section contained within a
5 Part, including the effective date of the Part, which makes reference to
6 a section "of this act", when used in connection with that particular
7 component, shall be deemed to mean and refer to the corresponding

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

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1 section of the Part in which it is found. Section three of this act sets
2 forth the general effective date of this act.

3 PART A

4 Section 1. Subsection (d) of section 3231 of the insurance law, as
5 added by chapter 501 of the laws of 1992, is amended to read as follows:

6 (d) (1) Notwithstanding any other provision of this chapter to the
7 contrary, no policy form subject to this section shall be issued or
8 delivered, nor any insurance contract entered into, unless and until the
9 insurer has filed with the superintendent a schedule of premiums, not to
10 exceed twelve months in duration, to be paid under the policy forms and
11 obtained the superintendent's approval thereof. The superintendent may
12 refuse such approval if he or she finds that such premiums are exces-
13 sive, inadequate, or unfairly discriminatory. The superintendent may
14 consider the financial condition of such insurer in approving or disap-
15 proving any premium. In determining whether to approve the schedule of
16 premiums filed, the superintendent shall, subject to the provisions of
17 section three thousand two hundred thirty-three of this article, consid-
18 er the prior experience of the insurer's community pool and the insur-
19 er's projections relating to claim costs, utilization and administrative
20 expenses and shall not adjust the insurer's rates based upon the rates
21 approved for other insurers.

22 (2) AN INSURER SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNICIPAL
23 CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND SEVEN
24 HUNDRED TWO OF THIS CHAPTER, COVERED BY THE INSURER UNDER A COMMUNITY
25 RATED POLICY WHEN THE MUNICIPAL CORPORATION REQUESTS ITS CLAIMS EXPERI-
26 ENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPERATIVE HEALTH
27 BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER.
28 NOTWITHSTANDING THE FORGOING PROVISIONS, NO INSURER SHALL BE REQUIRED TO
29 PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO A MUNICIPAL CORPO-
30 RATION MAKING THIS REQUEST.

31 S 2. Subsection (d) of section 4317 of the insurance law, as added by
32 chapter 501 of the laws of 1992, is amended to read as follows:

33 (d) (1) This section shall also apply to contracts issued to a group
34 defined in subsection (c) of section four thousand two hundred thirty-
35 five OF THIS CHAPTER, including but not limited to an association or
36 trust of employers, if the group includes one or more member employers
37 or other member groups which have fifty or fewer employees or members
38 exclusive of spouses and dependents.

39 (2) A CORPORATION SHALL PROVIDE SPECIFIC CLAIMS EXPERIENCE TO A MUNIC-
40 IPAL CORPORATION, AS DEFINED IN SUBSECTION (F) OF SECTION FOUR THOUSAND
41 SEVEN HUNDRED TWO OF THIS CHAPTER, COVERED BY THE CORPORATION UNDER A
42 COMMUNITY RATED CONTRACT WHEN THE MUNICIPAL CORPORATION REQUESTS ITS
43 CLAIMS EXPERIENCE FOR PURPOSES OF FORMING OR JOINING A MUNICIPAL COOPER-
44 ATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF
45 THIS CHAPTER. NOTWITHSTANDING THE FOREGOING PROVISIONS, NO CORPORATION
46 SHALL BE REQUIRED TO PROVIDE MORE THAN THREE YEARS' CLAIMS EXPERIENCE TO
47 A MUNICIPAL CORPORATION MAKING THIS REQUEST.

48 S 3. Paragraph 2 of subsection (a) of section 4704 of the insurance
49 law, as added by chapter 689 of the laws of 1994, is amended to read as
50 follows:

51 (2) except for any plan that provided medical, surgical and hospital
52 services on or before January first, nineteen hundred ninety-three
53 pursuant to a municipal cooperation agreement, the number of municipal

corporations participating in the municipal cooperative health benefit plan shall be at least [five] THREE;

S 4. The superintendent of insurance shall order a study of the impact to the community rated health insurance market of allowing a public entity, as defined in paragraph 51 of subsection (a) of section 107 of the insurance law, with fifty or fewer employees to join with public entities with more than fifty employees to purchase health insurance coverage under experience rated policies. The study shall be performed by a member of the American academy of actuaries. The study shall be completed and a report submitted by September 1, 2010 to the governor, the superintendent of insurance, the temporary president of the senate and the speaker of the assembly.

S 5. The superintendent of insurance shall conduct a study of the impact of the reserve requirements established in section 4706 of the insurance law on municipal cooperative health benefit plans and provide recommendation for changes to such requirements. The study shall be completed and a report submitted to the governor, the temporary president of the senate and the speaker of the assembly by October 1, 2009.

S 6. This act shall take effect immediately.

20

PART B

Section 1. Section 99-r of the general municipal law, as amended by chapter 165 of the laws of 2008, is amended to read as follows:

S 99-r. Contracts for services. Notwithstanding any other provisions of law to the contrary, the governing board of any municipal corporation may enter into agreements and/or contracts with any state agency including any department, board, bureau, commission, division, office, council, committee, or officer of the state, whether permanent or temporary, or a public benefit corporation or public authority, or a soil and water conservation district, and any unit of the state university of New York, pursuant to and consistent with sections three hundred fifty-five and sixty-three hundred one of the education law within or without such municipal corporation to provide OR RECEIVE fuel, equipment, maintenance and repair, supplies, water supply, street sweeping or maintenance, sidewalk maintenance, RIGHT-OF-WAY MAINTENANCE, STORM WATER AND OTHER drainage, sewage disposal, LANDSCAPING, MOWING, or any other services of government. Such state agency, soil and water conservation district, or unit of the state university of New York, within the limits of any specific statutory appropriation authorized and made available therefor by the legislature or by the governing body responsible for the operation of such state agency, soil and water conservation district, or unit of the state university of New York may contract with any municipal corporation for such services as herein provided. Any such contract may be entered into by direct negotiations and shall not be subject to the provisions of section one hundred three of this chapter.

S 2. Section 10 of the highway law is amended by adding a new subdivision 46 to read as follows:

46. HAVE THE AUTHORITY TO ENTER INTO AGREEMENTS AND/OR CONTRACTS TO PROVIDE OR RECEIVE SERVICES PURSUANT TO SECTION NINETY-NINE-R OF THE GENERAL MUNICIPAL LAW UPON SUCH TERMS AND CONDITIONS AS DEEMED APPROPRIATE BY THE COMMISSIONER OR COMMISSIONER'S DESIGNEE.

S 3. Section 12 of the highway law, as amended by chapter 1110 of the laws of 1971, subdivision 2 as amended by chapter 249 of the laws of 1972, subdivision 2-a as added by chapter 568 of the laws of 1986 and

1 subdivision 7 as added by chapter 691 of the laws of 1971, is amended to
2 read as follows:

3 S 12. Commissioner [of transportation] to provide for maintenance,
4 repair, and for control of snow and ice; roads and driveways on state
5 lands. 1. The maintenance and repair of improved state highways in towns
6 and incorporated villages, exclusive, however, of the cost of maintain-
7 ing and repairing bridges having a span in excess of twenty feet shall
8 be under the direct supervision and control of the commissioner [of
9 transportation] and he OR SHE shall be responsible therefor. The cost of
10 such maintenance and repair shall be borne wholly by the state and be
11 paid from moneys appropriated therefor by the legislature. Such mainte-
12 nance and repair may be done in the discretion of the commissioner
13 either directly by the department [of transportation] or by contract
14 awarded to the lowest responsible bidder at a public letting after due
15 advertisement, and under such rules and regulations as the commissioner
16 [of transportation] may prescribe. The commissioner [of transportation]
17 shall also have the power to adopt such system as may seem expedient so
18 that each section of such highways shall be effectively and economically
19 preserved, maintained and repaired.

20 2. The maintenance of state highways shall include the control of snow
21 and ice on such highways or any parts thereof, as the commissioner [of
22 transportation] may deem to be necessary to provide reasonable passage
23 and movement of vehicles over such highways. The commissioner [of trans-
24 portation] is authorized also to erect snow fences at suitable
25 locations. The work of such control of snow and ice may be done by any
26 municipality which for the purposes of this section shall include only a
27 county, city, town or village. The governing board or body of any such
28 municipality and the commissioner [of transportation] are hereby author-
29 ized to enter into an agreement for the performance of the work of such
30 control of snow and ice upon such terms, rules and regulations as may be
31 deemed by the commissioner [of transportation] to be for the best inter-
32 est of the public. Such agreement may provide for periodic payments
33 based upon a percentage of the estimated total cost. Any agreement
34 authorized by this subdivision shall be for a term of [three] UP TO FIVE
35 years and at the expiration of [each] THE year PRECEDING THE LAST YEAR
36 of the term specified in the agreement, as such term may be extended as
37 herein provided, the municipality shall notify the commissioner either
38 (a) that it requests, with the approval of the commissioner, that the
39 term of the agreement be extended for [one year] A SPECIFIED TERM OF UP
40 TO FIVE YEARS or (b) it intends not to extend the agreement and such
41 agreement shall expire at the end of the term. If the municipality fails
42 to notify the commissioner as herein provided, it shall be deemed that
43 the municipality intends not to extend the agreement. SUCH AGREEMENT
44 MAY BE TERMINATED DURING THE SPECIFIED TERM PROVIDED THE MUNICIPALITY
45 SHALL NOTIFY THE COMMISSIONER EIGHTEEN MONTHS PRIOR TO SUCH TERMINATION.
46 If any such agreement expires, a new agreement between the commissioner
47 and a municipality may be entered into for a term of [three] UP TO FIVE
48 years, with extended term or terms upon notification as above provided.
49 Whenever the commissioner shall deem the work of control of snow and ice
50 by any municipality to be inadequate or unsatisfactory according to the
51 terms of any such agreement, he OR SHE may, by official order to be
52 filed in [his office] THE DEPARTMENT, and by filing a certified copy
53 thereof in the office of the department of state, cancel said agreement,
54 and the payments thereunder provided by the state shall cease; whereupon
55 the commissioner may carry out the work of control of snow and ice. The
56 official order provided in this subdivision shall become effective at

1 the expiration of five days after the commissioner shall mail a certi-
2 fied copy thereof to the clerk or other official who performs related
3 duties in such municipality. The governing board or body of any such
4 municipality is authorized to appropriate such sum as it deems necessary
5 to enable such municipality to perform the terms of such agreement. The
6 work of such control of snow and ice may be done by any of the methods
7 provided in subdivision one of this section for the work of maintenance
8 and repair, or by a combination of such methods. Any county is hereby
9 authorized to enter into a contract with another municipality located
10 within the same county for the performance of the work of such control
11 of snow and ice as a subcontractor under any agreement with the commis-
12 sioner [of transportation] as such agreement is hereinbefore provided.
13 Moneys received by a county under the terms of any agreement authorized
14 by this subdivision shall be credited to the fund from which moneys were
15 appropriated to enable the county to perform the terms of such agree-
16 ment. Moneys so received by a town shall be credited to the highway
17 fund. Moneys so received by a city or village shall be credited to the
18 general fund.

19 2-a. (a) Except as provided hereafter the state shall indemnify and
20 hold harmless such municipalities for any and all liability for damages
21 for personal injury, injury to property or wrongful death for losses
22 arising from or occasioned by the manner of performance of the functions
23 under any agreement with a municipality for the control of snow and ice
24 pursuant to this section.

25 (b) In no event shall the state be obligated to defend or indemnify
26 such municipality, in any action, proceeding, claim or demand arising
27 out of the actual operation of an insured vehicle or vehicle subject to
28 self-insurance while engaged in the operation of snow and ice control
29 functions under such agreement.

30 (c) The municipality shall be entitled to representation by the attor-
31 ney general in any claim described in paragraph (a) of this subdivision,
32 provided, however, that the municipality shall be entitled to itself
33 defend any such action, proceeding, claim or demand whenever the attor-
34 ney general determines, based upon his investigation and review of the
35 facts and circumstances of the case that representation by the attorney
36 general would be inappropriate, or whenever a court of competent juris-
37 diction determines that a conflict of interest exists and that the muni-
38 cipality is entitled to be separately represented. Whenever the munici-
39 pality is entitled to defend the action itself, the state shall
40 reimburse the municipality for any and all costs and expenses, includ-
41 ing, but not limited to, counsel fees and disbursements.

42 (d) The state shall indemnify and save harmless such municipality in
43 the amount of any judgment obtained against such municipality in any
44 state or federal court on any claim described in paragraph (a) of this
45 subdivision, or in the amount of any settlement of such claim, or shall
46 pay such judgment or settlement; provided, however, that the act or
47 omission from which such judgment or settlement arose occurred while the
48 municipality was acting within the scope of its functions for control of
49 snow and ice; provided, further, that no stipulation of settlement of
50 any such action, proceeding, claim or demand shall be made or executed
51 without approval of the attorney general and of the commissioner [of
52 transportation] or his designee. Payment of any claim made pursuant to
53 settlement shall not exceed the sum of fifty thousand dollars. Nothing
54 herein shall authorize the state to indemnify or save harmless with
55 respect to punitive or exemplary damages.

1 (e) The duty to defend or indemnify and save harmless prescribed by
2 this subdivision shall be conditioned upon (i) delivery to the attorney
3 general or an assistant attorney general at the office of the department
4 of law located in Albany or New York city and by delivery to the commis-
5 sioner [of transportation] or his designee a copy of any claim, summons,
6 complaint, process, notice, demand or other pleading within ten days
7 after such municipality is served with such document and (ii) the full
8 cooperation of the municipality in the defense of such action, proceed-
9 ing, claim or demand and in the defense of any action, proceeding, claim
10 or demand against the state based upon the same act or omission, and in
11 the prosecution of any appeal.

12 (f) The benefits of this subdivision shall inure only to such munici-
13 palities and shall not enlarge or diminish the rights of any other party
14 nor shall any provision of this subdivision be construed to effect,
15 alter or repeal any provision of the workers' compensation law.

16 (g) This subdivision shall not in any way affect the obligation of any
17 claimant to give notice to the state under section ten of the court of
18 claims act or any other provision of law.

19 (h) The provisions of this subdivision shall not be construed to
20 impair, alter, limit or modify the rights and obligations of any insurer
21 under any insurance agreement.

22 (i) Except as otherwise specifically provided in this subdivision, the
23 provisions of this subdivision shall not be construed in any way to
24 impair, alter, limit, modify, abrogate or restrict any immunity avail-
25 able to or conferred upon any unit, entity, officer or employee of the
26 state or municipality or any other level of government, or any right to
27 defense and indemnification provided for any governmental officer or
28 employee by, in accordance with, or by reason of, any other provision of
29 state or federal statutory or common law.

30 3. The commissioner [of transportation] shall have the power to
31 purchase (a) materials for such maintenance and repair, except where
32 such work is done by contract, and to contract for the delivery thereof
33 at convenient intervals along such highways, and (b) equipment and
34 appliances that he may deem necessary to carry out the provisions of
35 this section. Any municipality, acting by and through its authorized
36 official, is hereby empowered to rent its machinery, tools, equipment,
37 and storage space, to the state, acting by and through the commissioner
38 [of transportation], for the purpose of such control of snow and ice
39 upon such terms and at such rate as may be agreed between the munici-
40 pality and the commissioner [of transportation]. Notwithstanding the
41 provisions of any general, special or local law or of any charter, the
42 governing board or body of any such municipality is hereby authorized to
43 sell such machinery, tools and equipment to the state, acting by and
44 through the commissioner [of transportation], for the purposes of this
45 section and without competitive bidding or other limitation or
46 restriction provided in any general, special or local law or of any
47 charter, and the commissioner [of transportation], may, upon approval by
48 the state comptroller and the state commissioner of general services,
49 purchase such machinery, tools and equipment from any such municipality
50 as herein provided.

51 4. Whenever funds therefor are made available, the commissioner [of
52 transportation] shall have power to acquire for the state, by purchase,
53 or by appropriation through the procedure described in section thirty of
54 this chapter, property for the purpose of storing, maintaining or proc-
55 essing construction and maintenance supplies, material or equipment and
56 for the purpose of providing, erecting and maintaining offices for

1 department personnel and structures for storing, maintaining or process-
2 ing construction and maintenance materials or equipment.

3 5. Whenever a state highway has been constructed at a greater width
4 than that provided in the original plans, upon petition of a village, as
5 provided in sections forty-six and forty-seven OF THIS CHAPTER, or upon
6 petition of a town or county, as provided in sections forty-eight,
7 forty-nine, or fifty-nine OF THIS CHAPTER, or whenever such highway has
8 been widened by a town or county under a permit granted as provided in,
9 or under conditions and regulations prescribed pursuant to section
10 fifty-two OF THIS CHAPTER, the additional width of pavement shall be
11 deemed to be a part of the highway and shall be maintained by the
12 commissioner [of transportation] as provided herein, but in no case
13 where any such highway has been widened as provided above, shall the
14 state be responsible for the maintenance of any curb or of any paved
15 gutter or paved shoulder, provided, however, that on any highway main-
16 tained by the state the commissioner shall have authority to clean any
17 pavement or paved gutter or repair any unpaved shoulder or unpaved
18 gutter outside of the pavement maintained by the state, where necessary
19 for the protection of such pavement.

20 6. Whenever the head of any state department having jurisdiction or
21 control over lands owned and occupied by the state, requests the commis-
22 sioner [of transportation] to maintain and to repair any road and drive-
23 way which is located on, over and across such lands, the commissioner
24 [of transportation] is, notwithstanding the provisions of any general,
25 special or local law, authorized to grant such request by his official
26 order therefor. Such official order shall contain a general description
27 of any such road and driveway. A certified copy of such official order
28 shall be filed by the commissioner [of transportation] in the office of
29 (a) the state department having jurisdiction or control over such lands,
30 and (b) the department of audit and control. Thereupon any such road
31 and driveway shall be maintained and repaired under the direct super-
32 vision and control of the commissioner [of transportation] in the same
33 manner as is provided in this section for the maintenance and repair of
34 improved state highways in towns and in incorporated villages.

35 7. Whenever the head of any state department, agency, institution or
36 public benefit corporation having jurisdiction or control over the lands
37 owned and occupied by the state or such department, agency, institution
38 or public benefit corporation requests the commissioner to construct,
39 reconstruct, and/or maintain any loop or peripheral roadway which is or
40 is to be located on, around, over, or across such lands, notwithstanding
41 the provisions of any general, special or local law, the commissioner is
42 authorized to grant such request and undertake such construction, recon-
43 struction and/or maintenance. Before undertaking the work of
44 construction, reconstruction and/or maintenance of such roadways, the
45 commissioner and the head of the state department, agency, institution
46 or public benefit corporation shall enter into a written agreement,
47 subject to the approval of the director of the budget, providing the
48 funds therefor, or reimbursement by such state department, agency,
49 institution or public benefit corporation of the funds therefor, includ-
50 ing all costs incurred by the department in connection with such
51 construction, reconstruction and/or maintenance. Where such loop or
52 peripheral roadway is to be constructed, reconstructed and/or maintained
53 on lands occupied by either the state university of New York or the
54 state university construction fund, both the state university of New
55 York and the state university construction fund shall be parties to such
56 agreement. Such roadway shall be constructed, or reconstructed, to

1 mutually agreeable standards, in the same manner as state highways are
2 constructed or reconstructed pursuant to this chapter. The maintenance
3 of such roadway shall be in the same manner as provided for state high-
4 ways in this chapter. If such a maintenance agreement extends for a
5 period greater than one year, the funds shall be made available for, or
6 reimbursed, on an annual basis. The head of such state department, agen-
7 cy, institution or public benefit corporation may terminate such mainte-
8 nance agreement upon six months written notice to the commissioner
9 making provision for the department [of transportation] to be reimbursed
10 for all costs incurred by such department up to such termination date.
11 In connection with the maintenance of such a roadway the commissioner
12 shall cause an official order to be issued therefor. Such official order
13 shall contain a general description of such roadway. A certified copy of
14 such official order shall be filed by the commissioner in the office of
15 the head of the state department, agency, institution or public benefit
16 corporation making such request for maintenance and with the department
17 of audit and control.

18 S 4. This act shall take effect immediately.

19

PART C

20 Section 1. Section 351 of the public health law, subdivision 1 as
21 amended by chapter 83 of the laws of 1975, is amended to read as
22 follows:

23 S 351. County or part-county health commissioner, PUBLIC HEALTH DIREC-
24 TOR OR COUNTY HEALTH DIRECTOR; appointment; compensation. 1. The board
25 of health of each county and part-county health district OR OTHER BODY
26 HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR
27 PART-COUNTY HEALTH DISTRICT or the county executive in those counties
28 where the county charter provides that said commissioner is to be
29 appointed by the county executive shall appoint a county health commis-
30 sioner, COUNTY HEALTH DIRECTOR OR, WHEN AUTHORIZED UNDER THE STATE SANI-
31 TARY CODE, PUBLIC HEALTH DIRECTOR; except, however,

32 (A) that the boards of health of not more than three county or part-
33 county health districts OR OTHER BODIES HAVING THE POWERS AND DUTIES OF
34 A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT may appoint
35 the same person to serve as county health commissioner, COUNTY HEALTH
36 DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC HEALTH
37 DIRECTOR for said health districts, if the total population of health
38 districts is not in excess of one hundred fifty thousand according to
39 the latest federal decennial census, provided the approval of the
40 commissioner is obtained[.]; OR

41 [The] (B) THE board of health OR OTHER BODY HAVING THE POWERS AND
42 DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT
43 of any county health district with a population of less than thirty-five
44 thousand [population] according to the latest federal decennial census
45 may appoint the same person employed by a contiguous county or part-
46 county health district to serve as county health commissioner, COUNTY
47 HEALTH DIRECTOR OR, WHEN AUTHORIZED BY THE STATE SANITARY CODE, PUBLIC
48 HEALTH DIRECTOR without regard to the total population of both health
49 districts, provided the approval of the commissioner is obtained.

50 [2.] THE COMMISSIONER SHALL PERIODICALLY REVIEW HIS OR HER DETERMI-
51 NATION TO ENSURE SUCH EMPLOYMENT OF THE SAME COUNTY HEALTH DIRECTOR,
52 DIRECTOR OF PUBLIC HEALTH OR COUNTY HEALTH COMMISSIONER CONTINUES TO
53 SERVE THE INTEREST OF PUBLIC HEALTH AND MAY TERMINATE HIS OR HER
54 APPROVAL AT HIS OR HER DISCRETION.

2. IF THE COMMISSIONER HAS APPROVED THE APPOINTMENT OF THE SAME PERSON TO SERVE AS THE COUNTY COMMISSIONER OF HEALTH OR PUBLIC HEALTH DIRECTOR OF MORE THAN ONE COUNTY OR PART-COUNTY HEALTH DISTRICT PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THEN DURING THE CONTINUATION OF SUCH APPROVAL THE COMMISSIONER MAY ALSO AUTHORIZE THE SAME MEMBERS TO BE APPOINTED TO THE BOARD OF HEALTH OF EACH RESPECTIVE HEALTH DISTRICT, NOTWITHSTANDING THEIR RESIDENCY IN THE OTHER COUNTY.

3. ANY BOARDS OF HEALTH OR OTHER BODIES HAVING THE POWERS AND DUTIES OF A BOARD OF HEALTH OF A COUNTY OR PART-COUNTY HEALTH DISTRICT HAVING THE SAME MEMBERS SHALL ANNUALLY SUBMIT SUCH INFORMATION AND REPORTS REGARDING THE EFFECT OF SUCH EMPLOYMENT ON ADMINISTRATION OF THE RESPECTIVE HEALTH DISTRICTS AND THE PROVISION OF PUBLIC HEALTH SERVICES AS THE COMMISSIONER MAY REQUIRE. THE COMMISSIONER SHALL USE SUCH INFORMATION IN DETERMINING WHETHER SUCH COMMON MEMBERSHIP CONTINUES TO SERVE THE INTEREST OF PUBLIC HEALTH.

4. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall possess such qualifications for office as are prescribed in the sanitary code.

[3.] 5. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall serve for a term of six years and shall not be removed during the term for which he OR SHE shall have been appointed, except upon written charges after a hearing and upon notice.

[4.] 6. The county health commissioner OR PUBLIC HEALTH DIRECTOR shall receive such compensation as may be fixed by the board of supervisors OR, IF THE COMMISSIONER'S APPROVAL HAS BEEN OBTAINED FOR THE EMPLOYMENT OF THE SAME PERSON AS THE COUNTY HEALTH COMMISSIONER OR PUBLIC HEALTH DIRECTOR PURSUANT TO SUBDIVISION ONE OF THIS SECTION, BY THE BOARDS OF SUPERVISORS.

S 2. This act shall take effect immediately.

PART D

Section 1. Subdivision 1 of section 103 of the general municipal law, as amended by chapter 741 of the laws of 2005, is amended to read as follows:

1. Except as otherwise expressly provided by an act of the legislature or by a local law adopted prior to September first, nineteen hundred fifty-three, all contracts for public work involving an expenditure of more than [twenty] THIRTY-FIVE thousand dollars and all purchase contracts involving an expenditure of more than ten thousand dollars, shall be awarded by the appropriate officer, board or agency of a political subdivision or of any district therein including but not limited to a soil conservation district, to the lowest responsible bidder furnishing the required security after advertisement for sealed bids in the manner provided by this section. In any case where a responsible bidder's gross price is reducible by an allowance for the value of used machinery, equipment, apparatus or tools to be traded in by a political subdivision, the gross price shall be reduced by the amount of such allowance, for the purpose of determining the low bid. In cases where two or more responsible bidders furnishing the required security submit identical bids as to price, such officer, board or agency may award the contract to any of such bidders. Such officer, board or agency may, in his or its discretion, reject all bids and readvertise for new bids in the manner provided by this section. For purposes of this section, "sealed bids", as that term applies to purchase contracts, shall include bids submitted in an electronic format, provided that the governing

1 board of the political subdivision or district, by resolution, has
2 authorized the receipt of bids in such format. Submission in electronic
3 format may not, however, be required as the sole method for the
4 submission of bids. Bids submitted in an electronic format shall be
5 transmitted by bidders to the receiving device designated by the poli-
6 tical subdivision or district. Any method used to receive electronic
7 bids shall comply with article three of the state technology law, and
8 any rules and regulations promulgated and guidelines developed there-
9 under and, at a minimum, must (a) document the time and date of receipt
10 of each bid received electronically; (b) authenticate the identity of
11 the sender; (c) ensure the security of the information transmitted; and
12 (d) ensure the confidentiality of the bid until the time and date estab-
13 lished for the opening of bids. The timely submission of an electronic
14 bid in compliance with instructions provided for such submission in the
15 advertisement for bids and/or the specifications shall be the responsi-
16 bility solely of each bidder or prospective bidder. No political subdivi-
17 sion or district therein shall incur any liability from delays of or
18 interruptions in the receiving device designated for the submission and
19 receipt of electronic bids.

20 S 2. This act shall take effect immediately, provided, however that
21 the amendments to subdivision 1 of section 103 of the general municipal
22 law made by section one of this act shall not affect the expiration of
23 such subdivision and shall be deemed to expire therewith.

24

PART E

25 Section 1. Section 2431 of the public authorities law is amended by
26 adding a new closing paragraph to read as follows:

27 IT IS FURTHER DECLARED TO BE IN THE PUBLIC INTEREST AND IT IS THE
28 POLICY OF THE STATE TO PROVIDE A MEANS BY WHICH A MUNICIPALITY IN THE
29 STATE CAN TAKE ADVANTAGE OF THE OPPORTUNITIES FOR BORROWING TO PROVIDE
30 FOR PUBLIC IMPROVEMENTS AFFORDED BY THE AMERICAN RECOVERY AND REINVEST-
31 MENT ACT OF 2009 AND TO DO SO BY AUTHORIZING A STATE INSTRUMENTALITY TO
32 BORROW MONEY AND USE THE PROCEEDS TO PURCHASE OBLIGATIONS ISSUED BY A
33 MUNICIPALITY UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,
34 THEREBY RESULTING IN EFFICIENCIES AND INTEREST RATE SAVINGS TO THE MUNI-
35 CIPALITY.

36 S 2. Subdivisions 2, 3 and 10 of section 2432 of the public authori-
37 ties law, as amended by section 67 of part H of chapter 83 of the laws
38 of 2002, are amended, and two new subdivisions 25 and 26 are added to
39 read as follows:

40 (2) "Bonds" and "Notes". The bonds and notes, including any special
41 program bonds [and], special school purpose bonds, AND RECOVERY ACT
42 BONDS, respectively issued by the agency pursuant to this title. Bonds
43 and notes shall not include any tax lien collateralized securities
44 issued pursuant to this title.

45 (3) "Municipal Bond". A bond or note or evidence of debt payable from
46 any local revenues, including taxes, assessments and rents, which a
47 municipality may lawfully issue to finance local improvements and public
48 purposes, INCLUDING LOCAL ARRA BONDS, but does not include (a) any bond
49 or note or evidence of debt issued by any other state or any public body
50 or municipal corporation thereof, (b) any special program agreement, or
51 (c) any special school purpose agreement or any special school deficit
52 program agreement.

53 (10) "Debt Service Reserve Fund Requirement". With respect to any debt
54 service reserve fund created by section [two thousand four] TWENTY-FOUR

1 hundred thirty-nine of this title relating to bonds other than special
2 program bonds or special school purpose bonds or special school deficit
3 program bonds OR RECOVERY ACT BONDS, as of any particular date of compu-
4 tation, an amount of money equal to the greatest of the respective
5 amounts, for the then current or any succeeding calendar year, of annual
6 debt service payments required to be made to the agency on all municipal
7 bonds purchased with the proceeds of bonds which bonds are secured by
8 such debt service reserve fund, such annual debt service payments for
9 any calendar year being an amount of money equal to the aggregate of (a)
10 all interest payable during such calendar year on all municipal bonds
11 purchased by the agency and then outstanding on said date of computation
12 which are secured by such debt service reserve fund, plus (b) the prin-
13 cipal amount of all municipal bonds purchased by the agency and then
14 outstanding on said date of computation which mature during such calen-
15 dar year and are secured by such debt service reserve fund; and with
16 respect to any debt service reserve fund created by section [two thou-
17 sand four] TWENTY-FOUR hundred thirty-nine of this title relating to an
18 issue or issues of special program bonds or special school purpose bonds
19 or special school deficit program bonds OR RECOVERY ACT BONDS, such
20 amount as shall be determined by the agency.

21 (25) "RECOVERY ACT BONDS". AN ISSUE OF BONDS OF THE AGENCY, ALL OR A
22 PORTION OF THE PROCEEDS OF WHICH ARE USED TO PURCHASE LOCAL ARRA BONDS.

23 (26) "LOCAL ARRA BONDS". A MUNICIPAL BOND ISSUED TO FINANCE OR REFI-
24 NANCE PURPOSES ELIGIBLE, IN WHOLE OR IN PART, FOR SUBSIDIES OR TAX CRED-
25 ITS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

26 S 3. Section 2434 of the public authorities law is amended by adding a
27 new subdivision 7-b to read as follows:

28 (7-B) TO ACQUIRE AND CONTRACT TO ACQUIRE LOCAL ARRA BONDS, AND TO
29 ENTER INTO ARRANGEMENTS WITH A MUNICIPALITY FOR THE PURCHASE OF ITS
30 LOCAL ARRA BONDS;

31 S 4. Subdivisions 1 and 2 of section 2435 of the public authorities
32 law, subdivision 1 as amended by chapter 346 of the laws of 1974, subdivi-
33 sion 2 as added by chapter 902 of the laws of 1972, are amended to
34 read as follows:

35 1. The agency may purchase, and contract to purchase, municipal bonds
36 from municipalities at such price or prices, upon such terms and condi-
37 tions and in such manner, not inconsistent with the provisions of the
38 local finance law, as the agency shall deem advisable; provided, howev-
39 er, that the average interest rate payable on all municipal bonds (taken
40 as a group) purchased with the proceeds of an issue of bonds shall equal
41 or exceed the interest rate on such issue of bonds[; and provided
42 further, however, that the]. THE agency shall not purchase the municipal
43 bonds of any municipality if (I) the aggregate principal amount thereof,
44 together with the aggregate principal balances of the municipal bonds of
45 such municipality then outstanding and held by the agency, exceed an
46 amount equal to ten percent of the aggregate principal amount of the
47 statutory authorization at the time for the issuance of bonds and notes,
48 as provided in section twenty-four hundred thirty-eight of this title,
49 and [the agency shall not purchase the municipal bonds of any municipi-
50 pality if] (II) the aggregate principal amount thereof exceeds an amount
51 equal to fifty percent of the aggregate principal amount of all municipi-
52 pal bonds proposed to be so purchased at the time; PROVIDED, HOWEVER,
53 THAT THIS SENTENCE SHALL NOT APPLY TO LOCAL ARRA BONDS.

54 2. The agency shall require as a condition of purchase of municipal
55 bonds from municipalities that each such municipality shall agree (i) to
56 pledge its full faith and credit for the payment of the principal of and

1 interest on such municipal bonds, (ii) to make annual appropriations for
2 amounts required for the payment of such principal and interest, and
3 (iii) if at any time the municipality fails to make the required appro-
4 priation to pay such principal and interest, or fails to make the
5 payment of the required principal and interest, the provisions of
6 section twenty-four hundred [and] thirty-six AND/OR TWENTY-FOUR HUNDRED
7 THIRTY-SIX-B of this title shall take effect. All municipalities selling
8 municipal bonds to the agency are hereby authorized to make and carry
9 out the agreements with the agency required in this subdivision.

10 S 5. The public authorities law is amended by adding a new section
11 2436-b to read as follows:

12 S 2436-B. LOCAL ARRA BONDS. (1) THE AGENCY MAY PURCHASE LOCAL ARRA
13 BONDS USING THE PROCEEDS OF RECOVERY ACT BONDS, SUBJECT TO THE
14 PROVISIONS OF THIS SECTION AND TO ANY OTHER PROVISION OF LAW APPLICABLE
15 TO THE MUNICIPALITY AND BONDS IT ISSUES, INCLUDING ANY DEBT LIMITATION
16 APPLICABLE TO THE MUNICIPALITY THAT ISSUED THE LOCAL ARRA BOND, AS WELL
17 AS TO THE OTHER PROVISIONS OF THIS TITLE. TO THE EXTENT THAT ANY SUCH
18 OTHER PROVISION OF LAW CONFLICTS WITH A PROVISION OF THIS SECTION, THE
19 PROVISION OF THIS SECTION SHALL CONTROL, EXCEPT AS OTHERWISE STATED.

20 (2) SUBJECT TO THE PROVISIONS OF THIS SECTION:

21 (A) LOCAL ARRA BONDS ISSUED BY A COUNTY, EXCEPT A COUNTY WHOLLY WITHIN
22 A CITY, MAY BE ADDITIONALLY SECURED BY A PLEDGE TO THE AGENCY OF ITS
23 AVAILABLE COUNTY SALES TAX REVENUES SUBJECT TO THE PROVISIONS OF SUBDI-
24 VISION FIVE OF THIS SECTION.

25 (B) LOCAL ARRA BONDS ISSUED BY A CITY MAY BE ADDITIONALLY SECURED BY A
26 PLEDGE TO THE AGENCY OF ITS AVAILABLE CITY SALES TAX REVENUES OR ITS
27 AVAILABLE MORTGAGE RECORDING TAX REVENUES, OR BOTH SUBJECT TO THE
28 PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

29 (C) LOCAL ARRA BONDS ISSUED BY A TOWN MAY BE ADDITIONALLY SECURED BY A
30 PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVENUES
31 SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

32 (D) LOCAL ARRA BONDS ISSUED BY A VILLAGE MAY BE ADDITIONALLY SECURED
33 BY A PLEDGE TO THE AGENCY OF ITS AVAILABLE MORTGAGE RECORDING TAX REVEN-
34 UES SUBJECT TO THE PROVISIONS OF SUBDIVISION FIVE OF THIS SECTION.

35 (3) (A) NOTHING CONTAINED IN THIS TITLE SHALL LIMIT THE RIGHT AND
36 OBLIGATIONS OF A MUNICIPALITY TO COMPLY WITH THE PROVISIONS OF ANY
37 EXISTING CONTRACT WITH OR FOR THE BENEFIT OF THE HOLDERS OF ANY OF ITS
38 OTHER BONDS, NOTES OR OTHER OBLIGATIONS.

39 (B) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO LIMIT THE
40 POWER OF A MUNICIPALITY TO DETERMINE, FROM TIME TO TIME, WITHIN AVAIL-
41 ABLE FUNDS FOR THE MUNICIPALITY, THE PURPOSES FOR WHICH EXPENDITURES ARE
42 TO BE MADE BY THE MUNICIPALITY AND THE AMOUNTS OF SUCH EXPENDITURES.

43 (C) NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT, MODIFY OR
44 IMPAIR THE RIGHT OF ANY SCHOOL DISTRICT OR OF ANY CITY, TOWN, OR VILLAGE
45 WITHIN A COUNTY TO RECEIVE FROM THE COUNTY NET COLLECTIONS, AS AUTHOR-
46 IZED BY SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW OR OTHER APPLI-
47 CABLE PROVISION OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR BY
48 AN UNCONSOLIDATED STATE LAW THAT NOTWITHSTANDS SUCH PROVISION OF THE TAX
49 LAW, FROM THE COUNTY'S SALES AND COMPENSATING USE TAXES IMPOSED PURSUANT
50 TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE
51 TAX LAW. FURTHER, NOTHING CONTAINED IN THIS TITLE SHALL ALTER, LIMIT,
52 MODIFY OR IMPAIR THE RIGHT OF ANY CITY OR TOWN WITHIN A COUNTY TO
53 RECEIVE FROM THE COUNTY THE NET AMOUNT OF MORTGAGE RECORDING TAX REVEN-
54 UES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE
55 TAX LAW, AS AUTHORIZED BY SUBDIVISION THREE OF SECTION TWO HUNDRED
56 SIXTY-ONE OF THE TAX LAW.

(D) THE AGENCY'S RECOVERY ACT BONDS SECURED BY PAYMENTS OF PRINCIPAL AND INTEREST DUE WITH RESPECT TO LOCAL ARRA BONDS SHALL NOT BE A DEBT OF EITHER THE STATE OR ANY MUNICIPALITY, AND NEITHER THE STATE NOR ANY MUNICIPALITY SHALL BE LIABLE THEREON, NOR SHALL THEY BE PAYABLE OUT OF ANY FUNDS OTHER THAN THOSE OF THE AGENCY; AND SUCH RECOVERY ACT BONDS SHALL CONTAIN ON THE FACE THEREOF A STATEMENT TO SUCH EFFECT.

(E) SUBJECT TO THE PROVISIONS OF ANY CONTRACT WITH HOLDERS OF BONDS, NOTES OR OTHER OBLIGATIONS, PROCEEDS OF RECOVERY ACT BONDS TO BE PAID TO A MUNICIPALITY TO PURCHASE ITS LOCAL ARRA BONDS SHALL BE PAID TO THE MUNICIPALITY AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEY OF THE AGENCY.

(F) NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO CREATE A DEBT OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISIONS. ANY PROVISION WITH RESPECT TO STATE AID SHALL BE DEEMED EXECUTORY ONLY TO THE EXTENT OF MONEYS AVAILABLE, AND NO LIABILITY SHALL BE INCURRED BY THE STATE BEYOND THE MONEYS AVAILABLE FOR THAT PURPOSE, AND ANY PAYMENT TO BE MADE BY THE COMPTROLLER OF STATE AID IS SUBJECT TO ANNUAL APPROPRIATION OF STATE AID BY THE STATE LEGISLATURE.

(G) NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT THE RIGHT OF THE STATE TO AMEND, REPEAL, MODIFY, OR OTHERWISE ALTER ANY PROVISION OF LAW RELATING TO STATE AID TO MUNICIPALITIES. THE AGENCY SHALL INCLUDE IN ANY RESOLUTION, CONTRACT, OR AGREEMENT WITH HOLDERS OF ITS BONDS, NOTES OR OTHER OBLIGATIONS A PROVISION WHICH STATES THAT NO DEFAULT OCCURS AS A RESULT OF THE STATE'S EXERCISING ITS RIGHT TO AMEND, REPEAL, MODIFY, OR OTHERWISE ALTER ANY PROVISION OF LAW RELATING TO STATE AID TO MUNICIPALITIES.

(4) (A) A MUNICIPALITY MAY COVENANT AND AGREE THAT THE MUNICIPALITY WILL NOT LIMIT, ALTER OR IMPAIR THE RIGHTS HEREBY VESTED IN THE AGENCY TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH HOLDERS OF THE AGENCY'S RECOVERY ACT BONDS, THE PROCEEDS OF WHICH WERE USED TO PURCHASE THE MUNICIPALITY'S LOCAL ARRA BONDS, SUCH HOLDERS PURSUANT TO THIS TITLE, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF SUCH HOLDERS OR THE SECURITY FOR SUCH BONDS, UNTIL SUCH BONDS, TOGETHER WITH THE INTEREST THEREON AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDING BY OR ON BEHALF OF SUCH HOLDERS, ARE FULLY PAID AND DISCHARGED. NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF THE MUNICIPALITY TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER ANY LOCAL LAWS, ORDINANCES OR RESOLUTIONS IMPOSING OR RELATING TO TAXES OR FEES, OR APPROPRIATIONS RELATING TO SUCH TAXES OR FEES, OR SETTING ASIDE OR ALLOCATING AND APPLYING, PAYING OR USING NET COLLECTIONS PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR PURSUANT TO THE AUTHORITY OF ANY OTHER PROVISION OF STATE LAW THAT NOTWITHSTANDS A PROVISION OF SUCH PART, SO LONG AS, AFTER GIVING EFFECT TO SUCH AMENDMENT, MODIFICATION OR OTHER ALTERATION, THE AGGREGATE AMOUNT AS THEN PROJECTED BY THE MUNICIPALITY OF (I) SALES AND COMPENSATING USE TAXES IMPOSED BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW (TO THE EXTENT THAT THE MUNICIPALITY IS AUTHORIZED TO IMPOSE SUCH TAXES AND IS IMPOSING THEM AT THE TIME IT ISSUES ITS LOCAL ARRA BONDS); AND (II) ALL SUCH NET COLLECTIONS TO BE SET ASIDE OR TO BE ALLOCATED AND APPLIED, PAID OR USED BY THE MUNICIPALITY PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR PURSUANT TO ANY OTHER PROVISION OF STATE LAW THAT NOTWITHSTANDS A PROVISION OF SUCH PART FOUR DURING EACH OF THE AGENCY'S FISCAL YEARS FOLLOWING THE EFFECTIVE DATE OF SUCH AMENDMENT, MODIFICATION OR OTHER ALTERATION SHALL BE NOT LESS THAN TWO HUNDRED PERCENT OF MAXIMUM ANNUAL DEBT SERVICE ON THE MUNICIPALITY'S LOCAL ARRA

BONDS THEN OUTSTANDING. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION, A MUNICIPALITY THAT IMPOSES SALES AND COMPENSATING USE TAXES AT THE TIME IT ISSUES LOCAL ARRA BONDS FURTHER AGREES THAT IT SHALL CONTINUE TO IMPOSE SUCH TAXES DURING THE TIME SUCH BONDS ARE OUTSTANDING AT THE MAXIMUM RATE AUTHORIZED THEREFOR, WITHOUT REGARD TO ANY ADDITIONAL RATE, PROVIDED THAT ANY INCREASE IN THE RATE OF SUCH TAXES TO SATISFY THIS OBLIGATION SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW.

(B) ANY SUCH AGREEMENT WITH A MUNICIPALITY MAY BE PLEDGED BY THE AGENCY TO SECURE ITS RECOVERY ACT BONDS USED TO PURCHASE LOCAL ARRA BONDS ISSUED BY THAT MUNICIPALITY AND MAY NOT BE MODIFIED THEREAFTER EXCEPT AS PROVIDED BY THE TERMS OF THE PLEDGE OR SUBSEQUENT AGREEMENTS WITH THE HOLDERS OF SUCH RECOVERY ACT BONDS.

(C) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR AGREEMENT WITH HOLDERS OF RECOVERY ACT BONDS ANY PROVISION WHICH PROVIDES THAT A DEFAULT OCCURS AS A RESULT OF A MUNICIPALITY EXERCISING ITS RIGHT TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER SUCH TAXES, FEES OR APPROPRIATIONS OR SUCH NET COLLECTIONS. NOTHING IN THIS TITLE SHALL BE DEEMED TO OBLIGATE A MUNICIPALITY TO MAKE ANY PAYMENTS OR IMPOSE ANY TAXES OR SET ASIDE OR ALLOCATE AND APPLY, PAY OR USE NET COLLECTIONS PURSUANT TO THE AUTHORITY OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW OR PURSUANT TO THE AUTHORITY OF AN UNCONSOLIDATED STATE LAW THAT NOTWITHSTANDS A PROVISION OF SUCH PART; EXCEPT THAT A MUNICIPALITY SHALL IMPOSE TAXES PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW AT THE MAXIMUM RATE AUTHORIZED THEREFOR, WITHOUT REGARD TO ANY ADDITIONAL RATE, PROVIDED THAT ANY INCREASE IN THE RATE OF SUCH TAXES TO SATISFY THIS OBLIGATION SHALL COMPLY WITH THE APPLICABLE PROVISIONS OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW.

(5) (A) IF A MUNICIPALITY FAILS TO PAY TO THE AGENCY ANY PRINCIPAL OR INTEREST DUE ON ITS LOCAL ARRA BONDS SECURED BY A PLEDGE OF ITS AVAILABLE LOCAL SALES AND USE TAX REVENUES OR ITS AVAILABLE MORTGAGE RECORDING TAX REVENUES, OR BOTH, AS DESCRIBED IN SUBDIVISION TWO OF THIS SECTION, THE CHAIRMAN OF THE AGENCY SHALL NOTIFY THE COMPTROLLER IN WRITING THAT SUCH MUNICIPALITY HAS FAILED TO MEET ITS OBLIGATIONS. SUCH NOTICE SHALL SET FORTH IN DETAIL THE TERM, AMOUNT, INTEREST RATE, AND PAYMENT SCHEDULE OF THE LOCAL ARRA BONDS IN DEFAULT, AND THE EXACT AMOUNTS OF PRINCIPAL AND INTEREST DUE FROM SUCH MUNICIPALITY IN DEFAULT. THE AGENCY SHALL PROVIDE A COPY OF SUCH NOTICE TO THE CHIEF FISCAL OFFICER OF SUCH MUNICIPALITY IN DEFAULT AND, IN THE CASE OF A DEFAULT BY A CITY, TOWN, OR VILLAGE WITH RESPECT TO LOCAL ARRA BONDS SECURED BY MORTGAGE RECORDING TAX REVENUES, ALSO TO THE CHIEF FISCAL OFFICER OF THE COUNTY IN WHICH THE CITY, TOWN, OR VILLAGE IS LOCATED. THE AGENCY SHALL PROVIDE SUCH NOTICE TO THE COMPTROLLER AT LEAST THIRTY DAYS PRIOR TO THE DATE THAT THE COMPTROLLER IS EXPECTED TO WITHHOLD AND PAY OVER LOCAL SALES AND USE TAX REVENUES TO THE AGENCY.

(B) UPON THE COMPTROLLER RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN NOTICE FROM THE AGENCY, THE COMPTROLLER SHALL, NOTWITHSTANDING ANY PROVISION OF SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW TO THE CONTRARY, PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, ALL OR A PORTION OF THE LOCAL SALES AND USE TAX REVENUES DUE THE MUNICIPALITY IN DEFAULT, UNTIL THE AMOUNT CERTIFIED IN DEFAULT HAS BEEN EXTINGUISHED. THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO THE AGENCY ONLY OUT OF NET COLLECTIONS NOT OTHERWISE PLEDGED, REQUIRED TO BE INTERCEPTED OR OTHERWISE ENCUMBERED BY PROVISIONS OF LAW IN EFFECT IMMEDIATE-

1 LY PRIOR TO THE DATE THE MUNICIPALITY'S LOCAL ARRA BONDS SECURED BY A
2 PLEDGE AUTHORIZED BY THIS SECTION SHALL HAVE BEEN ISSUED.

3 (C) UPON RECEIVING SUCH COMPLETE, CERTIFIED WRITTEN NOTICE FROM THE
4 AGENCY, THE CHIEF FISCAL OFFICER OF A COUNTY, NOTWITHSTANDING THE
5 PROVISIONS OF SECTION TWO HUNDRED SIXTY-ONE OF THE TAX LAW, SHALL PAY
6 OVER TO THE COMPTROLLER, THE NET AMOUNT OF MORTGAGE RECORDING TAX REVEN-
7 UES IMPOSED BY SUBDIVISION ONE OF SECTION TWO HUNDRED FIFTY-THREE OF THE
8 TAX LAW DUE TO THE CITY, TOWN, OR VILLAGE IN DEFAULT. THE CHIEF FISCAL
9 OFFICER OF THE COUNTY SHALL CONTINUE TO MAKE THOSE PAYMENTS TO THE COMP-
10 TROLLER UNTIL THE AGENCY SENDS CERTIFIED NOTICE TO THE OFFICER AND TO
11 THE COMPTROLLER THAT THE CITY OR TOWN IS NO LONGER IN DEFAULT. THE COMP-
12 TROLLER SHALL PAY TO THE AGENCY, ON OR BEFORE THE FIFTEENTH DAY OF EACH
13 MONTH, ALL OR A PORTION OF THE MORTGAGE RECORDING TAX REVENUES RECEIVED
14 FROM THE CHIEF FISCAL OFFICER OF THE COUNTY, UNTIL THE AMOUNT CERTIFIED
15 IN DEFAULT HAS BEEN EXTINGUISHED.

16 (D) SUCH PAYMENTS BY THE COMPTROLLER TO THE AGENCY SHALL BE MADE ON
17 ACCOUNT OF, AND FOR THE BENEFIT OF, THE MUNICIPALITY IN DEFAULT. IF SO
18 REQUESTED BY THE AGENCY, AS INDICATED IN ITS CERTIFIED NOTICE TO THE
19 COMPTROLLER, THE COMPTROLLER SHALL MAKE SUCH PAYMENTS TO A TRUSTEE
20 PURSUANT TO AN INDENTURE FOR HOLDERS OF THE RECOVERY ACT BONDS ISSUED BY
21 THE AGENCY THAT WERE USED TO PURCHASE THE MUNICIPALITY'S LOCAL ARRA
22 BONDS IN DEFAULT. SUCH PAYMENTS BY THE COMPTROLLER ON BEHALF OF SUCH
23 MUNICIPALITY SHALL BE APPLIED BY THE AGENCY OR, IF PAID DIRECTLY TO THE
24 TRUSTEE, BY SUCH TRUSTEE, TO CURE THAT MUNICIPALITY'S DEFAULT. TO THE
25 EXTENT THE COMPTROLLER MAKES ANY SUCH PAYMENT TO THE AGENCY OR TO SUCH A
26 TRUSTEE, THE MUNICIPALITY'S DEFAULT SHALL BE CURED.

27 (E) THE COMPTROLLER SHALL NOT BE RESPONSIBLE FOR ANY INACCURACY IN THE
28 AMOUNT OF SUCH PAYMENTS BASED UPON THE NOTICE FURNISHED BY THE AGENCY.
29 THE COMPTROLLER SHALL NOT BE REQUIRED TO MAKE PAYMENTS UNDER THIS SUBDI-
30 VISION WHICH ARE GREATER THAN THE AMOUNTS OF LOCAL SALES AND USE TAX
31 REVENUES DUE THE MUNICIPALITY, AS CERTIFIED TO THE COMPTROLLER BY THE
32 COMMISSIONER OF TAXATION AND FINANCE AS PROVIDED IN SUBDIVISION (C) OF
33 SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW (SUBJECT TO THE LIMITA-
34 TION IN PARAGRAPH (B) OF THIS SUBDIVISION), OR WHICH ARE GREATER THAN
35 THE AMOUNT OF NET MORTGAGE RECORDING TAX REVENUES PAID TO THE COMP-
36 TROLLER BY THE CHIEF FISCAL OFFICER OF THE COUNTY. AFTER THE COMPTROLLER
37 MAKES ANY PAYMENTS OF NET COLLECTIONS REQUIRED UNDER THIS SECTION, THE
38 COMPTROLLER SHALL PAY ANY BALANCE OF NET COLLECTIONS DUE SUCH MUNICI-
39 PALITY TO SUCH MUNICIPALITY IN THE MANNER PROVIDED IN SUBDIVISION (C) OF
40 SECTION TWELVE HUNDRED SIXTY-ONE OF THE TAX LAW OR OTHER APPLICABLE LAW.
41 THE COMPTROLLER SHALL BE REQUIRED TO MAKE PAYMENTS UNDER THIS SECTION
42 FOR ONLY SO LONG AS THE MUNICIPALITY IS IN DEFAULT AS CERTIFIED IN THE
43 AGENCY'S NOTICE TO THE COMPTROLLER.

44 (F) THE AUTHORITY IN THIS SECTION TO WITHHOLD LOCAL SALES AND USE TAX
45 REVENUES AND MORTGAGE RECORDING TAX REVENUES AND PAY THEM OVER TO THE
46 AGENCY SHALL BE IN ADDITION TO THE STATE AID GUARANTY SET FORTH IN
47 SECTION TWENTY FOUR HUNDRED THIRTY-SIX OF THIS TITLE; AND THE AGENCY MAY
48 CERTIFY THAT EITHER OR BOTH REVENUE SOURCES MAY BE WITHHELD TO THE
49 EXTENT NECESSARY TO SATISFY THE MUNICIPALITY'S UNMET OBLIGATIONS TO THE
50 AGENCY.

51 (G) ANY WITHHOLDING OF REVENUES PURSUANT TO THIS SUBDIVISION OR STATE
52 AID PURSUANT TO SECTION TWENTY-FOUR HUNDRED THIRTY-SIX OF THIS TITLE
53 WITH RESPECT TO LOCAL ARRA BONDS SHALL BE MADE IN CONSULTATION WITH THE
54 DIRECTOR OF THE BUDGET OF THE STATE; PROVIDED, HOWEVER, SUCH CONSULTA-
55 TION SHALL NOT DELAY OR OTHERWISE ADVERSELY AFFECT THE AGENCY'S RIGHT TO
56 RECEIVE TIMELY PAYMENT OF SUCH REVENUES AND/OR STATE AID.

(6) WHEN USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

(A) "SALES AND COMPENSATING USE TAXES" MEANS TAXES IMPOSED BY A COUNTY OR CITY PURSUANT TO THE AUTHORITY OF SUBPART B OF PART ONE OF ARTICLE TWENTY-NINE OF THE TAX LAW.

(B) "NET COLLECTIONS" SHALL HAVE THE SAME MEANING AS IN SUBDIVISION (F) OF SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW.

(C) "COUNTY SALES TAX REVENUES" MEANS NET COLLECTIONS SET ASIDE FOR COUNTY PURPOSES PURSUANT TO SUBDIVISION (A) OF SECTION TWELVE HUNDRED SIXTY-TWO OF THE TAX LAW OR OTHER APPLICABLE PROVISION OF PART FOUR OF ARTICLE TWENTY-NINE OF THE TAX LAW, FROM A COUNTY'S SALES AND COMPENSATING USE TAXES.

(D) "CITY SALES TAX REVENUES" MEANS NET COLLECTIONS FROM A CITY'S SALES AND COMPENSATING USE TAXES.

(E) "MUNICIPALITY" MEANS MUNICIPALITY AS DEFINED IN PARAGRAPH ONE OF SECTION 2.00 OF THE LOCAL FINANCE LAW.

(F) "LOCAL SALES AND USE TAX REVENUES" MEANS ANY OF THE TAX REVENUES DEFINED IN PARAGRAPH (C) OR (D) OF THIS SUBDIVISION, OR ANY COMBINATION OF THEM, AS THE CASE MAY BE.

(G) "SECURE" MEANS A PLEDGE OF SALES AND COMPENSATING USE TAXES OR MORTGAGE RECORDING TAXES FOR THE PURPOSES OF DEFAULT BY A MUNICIPALITY AS A RESULT OF A FAILURE TO PAY DEBT SERVICE ON ITS LOCAL ARRA BONDS.

S 6. Subdivision 5 of section 2437 of the public authorities law, as amended by section 73 of part H of chapter 83 of the laws of 2002, is amended to read as follows:

(5) Any bonds or notes of the agency other than special program bonds, special school purpose bonds [or], special school deficit program bonds OR RECOVERY ACT BONDS shall be sold at public sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof. Any special program bonds, special school purpose bonds [or], special school deficit program bonds OR RECOVERY ACT BONDS shall be sold at public or private sale and from time to time upon such terms and at such prices as may be determined by the agency, and the agency may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale thereof provided, however, that special program bonds relating to a special program agreement entered for the purpose described in paragraph (b) of subdivision one of section twenty-four hundred thirty-five-a of this title shall be sold on or before June thirtieth, two thousand one. No special program bonds, special school purpose bonds [or], special school deficit program bonds, OR RECOVERY ACT BONDS of the agency may be sold by the agency at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

S 7. Subdivision 1 of section 2438 of the public authorities law, as amended by section 24 of part A4 of chapter 58 of the laws of 2006, is amended to read as follows:

(1) The agency shall not issue bonds and notes in an aggregate principal amount at any one time outstanding exceeding one billion dollars, excluding tax lien collateralized securities, special school purpose bonds, special school deficit program bonds, special program bonds issued to finance the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of

1 section sixteen of chapter six hundred five of the laws of two thousand,
2 special program bonds issued to finance the cost of a project for
3 design, reconstruction or rehabilitation of a school building pursuant
4 to the provisions of section fourteen of the city of Syracuse and the
5 board of education of the city school district of the city of Syracuse
6 cooperative school reconstruction act, RECOVERY ACT BONDS and bonds and
7 notes issued to refund outstanding bonds and notes.

8 S 8. Section 2442 of the public authorities law, as amended by chapter
9 203 of the laws of 2000, is amended to read as follows:

10 S 2442. Agreement of the state. (1) The state of New York does hereby
11 pledge to and agree with the holders of any bonds, notes or tax lien
12 collateralized securities issued under this title that the state will
13 not limit or alter the rights hereby vested in the agency to fulfill the
14 terms of any agreements made with the holders thereof, or in any way
15 impair the rights and remedies of such holders until such bond, notes or
16 tax lien collateralized securities together with the interest thereon,
17 with interest on any unpaid installments of interest, and all costs and
18 expenses in connection with any action or proceedings by or on behalf of
19 such holders, are fully met and discharged. The agency is authorized to
20 include this pledge and agreement of the state in any agreement with the
21 holders of such bonds, notes or tax lien collateralized securities.
22 NOTHING CONTAINED IN THIS TITLE SHALL BE DEEMED TO RESTRICT ANY RIGHT OF
23 THE STATE TO AMEND, MODIFY, REPEAL OR OTHERWISE ALTER (A) ANY PROVISION
24 OF LAW RELATING TO STATE AID, OR (B) STATUTES IMPOSING OR RELATING TO
25 TAXES OR FEES, OR (C) APPROPRIATIONS RELATING THERETO.

26 (2) THE AGENCY SHALL NOT INCLUDE WITHIN ANY RESOLUTION, CONTRACT OR
27 AGREEMENT WITH HOLDERS OF THE BONDS, NOTES OR OTHER OBLIGATIONS ISSUED
28 UNDER THIS TITLE ANY PROVISION WHICH PROVIDES THAT A DEFAULT OCCURS AS A
29 RESULT OF THE STATE EXERCISING ITS RIGHT TO AMEND, MODIFY, OR REPEAL OR
30 OTHERWISE ALTER (A) ANY PROVISION OF LAW RELATING TO STATE AID; OR (B)
31 STATUTES IMPOSING OR RELATING TO TAXES OR FEES, OR (C) APPROPRIATIONS
32 RELATING THERETO. NOTHING IN THIS TITLE SHALL BE DEEMED TO OBLIGATE THE
33 STATE TO MAKE ANY PAYMENTS OR IMPOSE ANY TAXES TO SATISFY THE DEBT
34 SERVICE OBLIGATIONS OF THE AGENCY.

35 S 9. Section 85.80 of the local finance law, as amended by chapter 777
36 of the laws of 1978, is amended to read as follows:

37 S 85.80 Authority for municipality or emergency financial control
38 board to file petition under federal statute. A municipality or its
39 emergency financial control board in addition to, or in lieu of, filing
40 a petition under this title, or the city of New York or the New York
41 state financial control board, may file any petition with any United
42 States district court or court of bankruptcy under any provision of the
43 laws of the United States, now or hereafter in effect, for the composi-
44 tion or adjustment of municipal indebtedness. Nothing contained in this
45 title shall be construed to limit the authorization granted by this
46 section. HOWEVER, NO MUNICIPALITY SHALL FILE ANY PETITION AUTHORIZED BY
47 THIS SECTION FOR SO LONG AS ITS LOCAL ARRA BONDS, AS DEFINED IN SECTION
48 TWENTY-FOUR HUNDRED THIRTY-TWO OF THE PUBLIC AUTHORITIES LAW, PURCHASED
49 BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY AND SECURED BY ITS
50 PLEDGE OF TAX REVENUES PURSUANT TO THE AUTHORITY OF SECTION TWENTY-FOUR
51 HUNDRED THIRTY-SIX-B OF THE PUBLIC AUTHORITIES LAW REMAIN OUTSTANDING.

52 S 10. Subdivision 1 of section 51 of the public authorities law is
53 amended by adding a new paragraph m to read as follows:

54 M. STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY FOR BONDS ISSUED
55 PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED THIRTY-SIX-B OF THIS CHAP-
56 TER

1 S 11. Section 51 of the public authorities law is amended by adding a
2 new subdivision 3-a to read as follows:

3 3-A. THE BOARD SHALL NOT APPROVE RECOVERY ACT BONDS APPLICATIONS
4 PROVIDED BY THE STATE OF NEW YORK MUNICIPAL BOND BANK AGENCY UNLESS THE
5 BOARD FINDS SUFFICIENT INTEREST RATE AND OTHER SAVINGS TO EACH PARTIC-
6 IPATING MUNICIPALITY.

7 S 12. Section 2976 of the public authorities law is amended by adding
8 a new subdivision 4 to read as follows:

9 4. THE PROVISIONS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL
10 NOT APPLY TO RECOVERY ACT BONDS ISSUED BY THE STATE OF NEW YORK MUNICI-
11 PAL BOND BANK AGENCY IN CONNECTION WITH LOCAL AMERICAN RECOVERY AND
12 REINVESTMENT ACT PURSUANT TO SECTION TWO THOUSAND FOUR HUNDRED
13 THIRTY-SIX-B OF THIS CHAPTER.

14 S 13. This act shall take effect immediately.

15 PART F

16 Section 1. Subdivisions (a) and (b) of section 4545 of the civil prac-
17 tice law and rules are REPEALED.

18 S 2. Subdivision (c) of section 4545 of the civil practice law and
19 rules, as added by chapter 220 of the laws of 1986, is amended to read
20 as follows:

21 [(c)] (A) Actions for personal injury, injury to property or wrongful
22 death. In any action brought to recover damages for personal injury,
23 injury to property or wrongful death, where the plaintiff seeks to
24 recover for the cost of medical care, dental care, custodial care or
25 rehabilitation services, loss of earnings or other economic loss,
26 evidence shall be admissible for consideration by the court to establish
27 that any such past or future cost or expense was or will, with reason-
28 able certainty, be replaced or indemnified, in whole or in part, from
29 any collateral source [such as insurance (], except for life insur-
30 ance[)], social security (except those benefits provided under title
31 XVIII of the social security act), workers' compensation or employee
32 benefit programs (except such collateral sources entitled by law to
33 liens against any recovery of the plaintiff)] AND THOSE PAYMENTS AS TO
34 WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT. If the court finds
35 that any such cost or expense was or will, with reasonable certainty, be
36 replaced or indemnified from any SUCH collateral source, it shall reduce
37 the amount of the award by such finding, minus an amount equal to the
38 premiums paid by the plaintiff for such benefits for the two-year period
39 immediately preceding the accrual of such action and minus an amount
40 equal to the projected future cost to the plaintiff of maintaining such
41 benefits. In order to find that any future cost or expense will, with
42 reasonable certainty, be replaced or indemnified by the collateral
43 source, the court must find that the plaintiff is legally entitled to
44 the continued receipt of such collateral source, pursuant to a contract
45 or otherwise enforceable agreement, subject only to the continued
46 payment of a premium and such other financial obligations as may be
47 required by such agreement. ANY COLLATERAL SOURCE DEDUCTION REQUIRED BY
48 THIS SUBDIVISION SHALL BE MADE BY THE TRIAL COURT AFTER THE RENDERING OF
49 THE JURY'S VERDICT. THE PLAINTIFF MAY PROVE HIS OR HER LOSSES AND
50 EXPENSES AT THE TRIAL IRRESPECTIVE OF WHETHER SUCH SUMS WILL LATER HAVE
51 TO BE DEDUCTED FROM THE PLAINTIFF'S RECOVERY.

52 S 3. Subdivision (d) of section 4545 of the civil practice law and
53 rules is relettered subdivision (b).

1 S 4. Subdivision (e) of rule 4111 of the civil practice law and rules
2 is REPEALED.

3 S 5. Subdivision (f) of rule 4111 of the civil practice law and rules,
4 as amended by chapter 100 of the laws of 1994, is relettered subdivision
5 (e) and amended to read as follows:

6 (e) Itemized verdict in certain actions. In an action brought to
7 recover damages for personal injury, injury to property or wrongful
8 death, which is not subject to [subdivisions] SUBDIVISION (d) [and (e)]
9 of this rule, the court shall instruct the jury that if the jury finds a
10 verdict awarding damages, it shall in its verdict specify the applicable
11 elements of special and general damages upon which the award is based
12 and the amount assigned to each element including, but not limited to,
13 medical expenses, dental expenses, loss of earnings, impairment of earn-
14 ing ability, and pain and suffering. Each element shall be further item-
15 ized into amounts intended to compensate for damages that have been
16 incurred prior to the verdict and amounts intended to compensate for
17 damages to be incurred in the future. In itemizing amounts intended to
18 compensate for future damages, the jury shall set forth the period of
19 years over which such amounts are intended to provide compensation. In
20 actions in which article fifty-A or fifty-B of this chapter applies, in
21 computing said damages, the jury shall be instructed to award the full
22 amount of future damages, as calculated, without reduction to present
23 value.

24 S 6. Subdivision (b) of section 4213 of the civil practice law and
25 rules, as separately amended by chapters 485 and 682 of the laws of
26 1986, is amended to read as follows:

27 (b) Form of decision. The decision of the court may be oral or in
28 writing and shall state the facts it deems essential. In [a medical,
29 dental or podiatric malpractice action or in an action against a public
30 employer or a public employee who is subject to indemnification by a
31 public employer with respect to such action or both, as such terms are
32 defined in subdivision (b) of section forty-five hundred forty-five, for
33 personal injury or wrongful death arising out of an injury sustained by
34 a public employee while acting within the scope of his public employment
35 or duties, and in] any [other] action brought to recover damages for
36 personal injury, injury to property, or wrongful death, a decision
37 awarding damages shall specify the applicable elements of special and
38 general damages upon which the award is based and the amount assigned to
39 each element, including but not limited to medical expenses, dental
40 expenses, podiatric expenses, loss of earnings, impairment of earning
41 ability, and pain and suffering. In a medical, dental or podiatric malp-
42 ractice action, [and in any other action brought to recover damages for
43 personal injury, injury to property, or wrongful death, each element
44 shall be further itemized into amounts intended to compensate for
45 damages which have been incurred prior to the decision and amounts
46 intended to compensate for damages to be incurred in the future. In
47 itemizing amounts intended to compensate for future damages, the court
48 shall set forth the period of years over which such amounts are intended
49 to provide compensation. In computing said damages, the court shall
50 award the full amount of future damages, as calculated, without
51 reduction to present value] COMMENCED ON OR AFTER JULY TWENTY-SIXTH, TWO
52 THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES SHALL BE ITEM-
53 IZED IN ACCORDANCE WITH SUBDIVISION (D) OF RULE FORTY-ONE HUNDRED ELEVEN
54 OF THIS CHAPTER. IN ANY ACTION BROUGHT TO RECOVER DAMAGES FOR PERSONAL
55 INJURY, INJURY TO PROPERTY OR WRONGFUL DEATH, OTHER THAN A MEDICAL,
56 DENTAL OR PODIATRIC MALPRACTICE ACTION COMMENCED ON OR AFTER JULY TWEN-

TY-SIXTH, TWO THOUSAND THREE, THE COURT'S DECISION AS TO FUTURE DAMAGES SHALL BE ITEMIZED IN ACCORDANCE WITH SUBDIVISION (E) OF RULE FORTY-ONE HUNDRED ELEVEN OF THIS CHAPTER.

S 7. Section 5-101 of the general obligations law is amended by adding a new subdivision 4 to read as follows:

4. AS USED IN SECTION 5-335 OF THIS ARTICLE, THE TERM "BENEFIT PROVIDER" MEANS ANY INSURER, HEALTH MAINTENANCE ORGANIZATION, HEALTH BENEFIT PLAN, PREFERRED PROVIDER ORGANIZATION, EMPLOYEE BENEFIT PLAN OR OTHER ENTITY WHICH PROVIDES FOR PAYMENT OR REIMBURSEMENT OF HEALTH CARE EXPENSES, HEALTH CARE SERVICES, DISABILITY PAYMENTS, LOST WAGE PAYMENTS OR ANY OTHER BENEFITS UNDER A POLICY OF INSURANCE OR CONTRACT WITH AN INDIVIDUAL OR GROUP.

S 8. The general obligations law is amended by adding a new section 5-335 to read as follows:

S 5-335. LIMITATION OF NON-STATUTORY REIMBURSEMENT AND SUBROGATION CLAIMS IN PERSONAL INJURY AND WRONGFUL DEATH ACTIONS. (A) WHEN A PLAINTIFF SETTLES WITH ONE OR MORE DEFENDANTS IN AN ACTION FOR PERSONAL INJURIES, MEDICAL, DENTAL, OR PODIATRIC MALPRACTICE, OR WRONGFUL DEATH, IT SHALL BE CONCLUSIVELY PRESUMED THAT THE SETTLEMENT DOES NOT INCLUDE ANY COMPENSATION FOR THE COST OF HEALTH CARE SERVICES, LOSS OF EARNINGS OR OTHER ECONOMIC LOSS TO THE EXTENT THOSE LOSSES OR EXPENSES HAVE BEEN OR ARE OBLIGATED TO BE PAID OR REIMBURSED BY A BENEFIT PROVIDER, EXCEPT FOR THOSE PAYMENTS AS TO WHICH THERE IS A STATUTORY RIGHT OF REIMBURSEMENT. BY ENTERING INTO ANY SUCH SETTLEMENT, A PLAINTIFF SHALL NOT BE DEEMED TO HAVE TAKEN AN ACTION IN DEROGATION OF ANY NONSTATUTORY RIGHT OF ANY BENEFIT PROVIDER THAT PAID OR IS OBLIGATED TO PAY THOSE LOSSES OR EXPENSES; NOR SHALL A PLAINTIFF'S ENTRY INTO SUCH SETTLEMENT CONSTITUTE A VIOLATION OF ANY CONTRACT BETWEEN THE PLAINTIFF AND SUCH BENEFIT PROVIDER.

EXCEPT WHERE THERE IS A STATUTORY RIGHT OF REIMBURSEMENT, NO PARTY ENTERING INTO SUCH A SETTLEMENT SHALL BE SUBJECT TO A SUBROGATION CLAIM OR CLAIM FOR REIMBURSEMENT BY A BENEFIT PROVIDER AND A BENEFIT PROVIDER SHALL HAVE NO LIEN OR RIGHT OF SUBROGATION OR REIMBURSEMENT AGAINST ANY SUCH SETTLING PARTY, WITH RESPECT TO THOSE LOSSES OR EXPENSES THAT HAVE BEEN OR ARE OBLIGATED TO BE PAID OR REIMBURSED BY SAID BENEFIT PROVIDER.

(B) THIS SECTION SHALL NOT APPLY TO A SUBROGATION CLAIM FOR RECOVERY OF ADDITIONAL FIRST-PARTY BENEFITS PROVIDED PURSUANT TO ARTICLE FIFTY-ONE OF THE INSURANCE LAW. THE TERM "ADDITIONAL FIRST-PARTY BENEFITS", AS USED IN THIS SUBDIVISION, SHALL HAVE THE SAME MEANING GIVEN IT IN SECTION 65-1.3 OF TITLE 11 OF THE CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK AS OF THE EFFECTIVE DATE OF THIS STATUTE.

S 9. This act shall take effect immediately and shall apply to all actions and proceedings commenced on or after such date; provided, however, that sections four through eight of this act shall also apply to any action or proceeding which was commenced prior to such effective date where, as of such date, either (a) a trial of the issues has not yet commenced, or (b) the parties have not yet entered into a stipulation of settlement.

S 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included herein.
3 S 3. This act shall take effect immediately provided, however, that
4 the applicable effective date of Parts A through F of this act shall be
5 as specifically set forth in the last section of such Parts.