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

7492--A

I N S E N A T E

May 29, 2012

Introduced by Sens. YOUNG, GRIFFO, LARKIN, McDONALD -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to authorizing certain counties to adopt and amend local laws imposing sales tax; to amend the county law, in relation to wireless surcharges in certain counties; to amend the public health law, in relation to the fee charged for the issuance of birth and death records; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. The opening paragraph of section 1210 of the tax law is amended by adding a new subparagraph (i-a) to read as follows:

(I-A) WITH RESPECT TO ANY COUNTY THAT IMPOSES THE THREE PERCENT RATE AUTHORIZED ABOVE AND EITHER DOES NOT IMPOSE AN ADDITIONAL RATE AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH OR IMPOSES AN ADDITIONAL RATE AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH AT A RATE LESS THAN ONE PERCENT, SUCH COUNTY IS HEREBY FURTHER AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING SUCH TAXES AT A RATE, IN ONE-QUARTER INCREMENTS, THAT IS NOT MORE THAN ONE PERCENT ADDITIONAL TO THE THREE PERCENT RATE AUTHORIZED ABOVE IN THIS PARAGRAPH FOR SUCH COUNTY FOR TWO-YEAR PERIODS WITH THE FIRST PERIOD BEGINNING DECEMBER FIRST, TWO THOUSAND THIRTEEN, PROVIDED THAT SUCH LOCAL LAW IMPOSING OR REIMPOSING SUCH TAX SHALL BE SUBJECT TO A MANDATORY REFERENDUM PURSUANT TO SECTION TWENTY-THREE OF THE MUNICIPAL HOME RULE LAW AND SHALL ONLY BE SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A GENERAL ELECTION. PROVIDED FURTHER, THAT ANY LOCAL LAW IMPOSING SUCH TAX AUTHORIZED BY THIS PARAGRAPH AT A RATE THAT EXCEEDS THE RATE IMPOSED BY THE LOCAL LAW IN EFFECT WHEN SUCH NEW LOCAL LAW IS ADOPTED, BUT NOT IN EXCESS OF THE SUM OF THE RATES THAT ARE (I) AUTHORIZED BY THIS CLAUSE, (II) AUTHORIZED ABOVE IN THIS PARAGRAPH FOR SUCH COUNTY, AND (III) AUTHORIZED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR SUCH COUNTY SHALL BE SUBJECT TO A MANDATORY REFER-

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

LBD15011-05-2

ENDUM THAT SHALL BE, TO THE EXTENT THAT SUCH RATE EXCEEDS THE SUM OF THE RATES AUTHORIZED ABOVE IN THIS PARAGRAPH FOR SUCH COUNTY AND THE RATES AUTHORIZED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH FOR SUCH COUNTY, SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A GENERAL ELECTION. ANY SUCH LOCAL LAW EXTENDING SUCH TAX AT OR BELOW THE RATE AT WHICH SUCH TAX WAS IMPOSED IMMEDIATELY PRIOR TO ITS EXPIRATION, OR REPEALING OR SUSPENDING SUCH TAX SHALL NOT BE SUBJECT TO A MANDATORY REFERENDUM.

S 2. Subparagraph (iii) of the opening paragraph of section 1210 of the tax law, as amended by chapter 74 of the laws of 2010, is amended to read as follows:

(iii) the maximum rate referred to in section twelve hundred twenty-four of this article shall be calculated without reference to ANY ADDITIONAL RATES AUTHORIZED PURSUANT TO SUBPARAGRAPH (I-A) OF THIS PARAGRAPH AND the following additional rates authorized in subparagraphs (i) and (ii) of this paragraph: one and one-half percent for the county of Allegany; one percent for the counties of Rensselaer, Erie, Cattaraugus, Wyoming, Ulster, Albany, Suffolk, Greene, Orleans, Franklin, Herkimer, Genesee, Columbia, Schuyler, Chenango, Monroe, Steuben, Chemung, Seneca, Livingston, Niagara, Yates, Tioga, Montgomery, Delaware, Wayne, Schoharie, Putnam, Clinton and Onondaga and the cities of Yonkers, Mount Vernon and New Rochelle; three-quarters of one percent for the counties of Dutchess, Essex, Lewis, Orange, and Jefferson; one percent and three-quarters of one percent or one-half of one percent for the county of Oneida; three-quarters of one percent and one-half of one percent for the county of Nassau; one-half of one percent and one-quarter of one percent and one-quarter of one percent for the city of White Plains; one-half or one percent for the county of Tompkins; three-eighths of one percent and five-eighths of one percent for the county of Rockland; one-half of one percent for the counties of Putnam and Schenectady; one-eighth of one percent and three-eighths of one percent for the county of Ontario; one-half of one percent; one-half of one percent for the county of Sullivan; and three-quarters of one percent or one-half of one percent for the county of Chautauqua;

S 3. Section 1202-a of the tax law is renumbered section 1202-aaa and a new section 1202-a is added to read as follows:

S 1202-A. AUTHORITY TO ENACT. (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY COUNTY THAT IS NOT AUTHORIZED TO IMPOSE A TAX UPON PERSONS OCCUPYING HOTEL OR MOTEL ROOMS IN SUCH COUNTY ON JANUARY FIRST, TWO THOUSAND THIRTEEN IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT AND AMEND LOCAL LAWS IMPOSING IN SUCH COUNTY A TAX, IN ADDITION TO ANY OTHER TAX AUTHORIZED AND IMPOSED PURSUANT TO THIS ARTICLE AS THE LEGISLATURE HAS OR WOULD HAVE THE POWER AND AUTHORITY TO IMPOSE UPON PERSONS OCCUPYING HOTEL OR MOTEL ROOMS IN SUCH COUNTY. PROVIDED, HOWEVER, ANY SUCH LOCAL LAW IMPOSING OR REIMPOSING SUCH TAX SHALL BE SUBJECT TO A MANDATORY REFERENDUM PURSUANT TO SECTION TWENTY-THREE OF THE MUNICIPAL HOME RULE LAW. SUCH LOCAL LAW SHALL ONLY BE SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A NOVEMBER GENERAL ELECTION. IN ADDITION TO THE FILINGS REQUIRED PURSUANT TO ARTICLE THREE OF THE MUNICIPAL HOME RULE LAW, THE LOCAL LAW SHALL BE FILED WITH THE COMMISSIONER WITHIN TWENTY DAYS OF ITS APPROVAL BY THE ELECTORS. FOR THE PURPOSES OF THIS SECTION, THE TERM "HOTEL OR MOTEL" SHALL MEAN AND INCLUDE ANY FACILITY PROVIDING LODGING ON AN OVERNIGHT BASIS AND SHALL INCLUDE THOSE FACILITIES DESIGNATED AND COMMONLY KNOWN AS "BED AND BREAKFAST", "INN", "HOUSEKEEPING COTTAGES WITH FOUR OR MORE UNITS", AND "TOURIST FACILITIES".

(2) A. THE RATE OF SUCH TAX SHALL BE ONE-HALF OF ONE PERCENT, ANY WHOLE PERCENT OR ANY COMBINATION OF A WHOLE PERCENT AND ONE-HALF OF ONE PERCENT; PROVIDED THAT SUCH RATE SHALL NOT EXCEED FIVE PERCENT; PROVIDED, HOWEVER, THAT SUCH TAX SHALL NOT BE APPLICABLE TO A PERMANENT RESIDENT OF A HOTEL OR MOTEL. FOR THE PURPOSES OF THIS SECTION, THE TERM "PERMANENT RESIDENT" SHALL MEAN A PERSON OCCUPYING ANY ROOM OR ROOMS IN A HOTEL OR MOTEL FOR AT LEAST THIRTY CONSECUTIVE DAYS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, ANY CITY IMPOSING HOTEL OR MOTEL TAXES PURSUANT TO THE AUTHORITY OF THIS SUBPART AND IS IN A COUNTY IMPOSING HOTEL OR MOTEL TAXES PURSUANT TO THE AUTHORITY OF THIS SECTION SHALL HAVE THE PRIOR RIGHT TO IMPOSE SUCH TAXES IN SUCH CITY, UP TO THE MAXIMUM RATE OF TAX AUTHORIZED FOR SUCH CITY IN THIS SUBPART; AND THE RATE OF TAX AUTHORIZED TO BE IMPOSED BY THE COUNTY PURSUANT TO THE AUTHORITY OF THIS SECTION IN ANY SUCH CITY IMPOSING SUCH A TAX SHALL BE REDUCED BY THE RATE OF SUCH CITY'S TAX.

B. PROVIDED FURTHER THAT, ANY SUCH CITY TAX, TO THE EXTENT THAT IT WOULD REQUIRE A REDUCTION IN THE COUNTY'S TAX RATE IMPOSED PURSUANT TO THIS SECTION IN SUCH CITY, SHALL NOT BECOME EFFECTIVE BEFORE THE COMMENCEMENT OF THE COUNTY'S NEXT SUCCEEDING FISCAL YEAR AND THEN ONLY IF THE CITY SHALL HAVE GIVEN NOTICE TO SUCH COUNTY OF ITS IMPOSITION OF SUCH TAX AT LEAST SIX MONTHS PRIOR TO THE COMMENCEMENT OF SUCH FISCAL YEAR, PROVIDED, HOWEVER, THAT THE LOCAL LEGISLATIVE BODY OF SUCH COUNTY MAY WAIVE THE REQUIREMENT OF SUCH NOTICE AND POSTPONEMENT OF THE EFFECTIVE DATE OF SUCH CITY TAX.

(3) SUCH TAX MAY BE COLLECTED AND ADMINISTERED BY THE COUNTY TREASURER OR OTHER FISCAL OFFICERS OF THE COUNTY IMPOSING THE TAX BY SUCH MEANS AND IN SUCH MANNER AS OTHER TAXES WHICH ARE NOW COLLECTED AND ADMINISTERED BY SUCH OFFICERS OR AS OTHERWISE MAY BE PROVIDED BY SUCH LOCAL LAW.

(4) SUCH LOCAL LAWS MAY PROVIDE THAT ANY TAX IMPOSED SHALL BE PAID BY THE PERSON LIABLE THEREFOR TO THE OWNER OF THE HOTEL OR MOTEL ROOM OCCUPIED OR TO THE PERSON ENTITLED TO BE PAID THE RENT OR CHARGE FOR THE HOTEL OR MOTEL ROOM OCCUPIED FOR AND ON ACCOUNT OF THE COUNTY IMPOSING THE TAX AND THAT SUCH OWNER OR PERSON ENTITLED TO BE PAID THE RENT OR CHARGE SHALL BE LIABLE FOR THE COLLECTION AND PAYMENT OF THE TAX; AND THAT SUCH OWNER OR PERSON ENTITLED TO BE PAID THE RENT OR CHARGE SHALL HAVE THE SAME RIGHT IN RESPECT TO COLLECTING THE TAX FROM THE PERSON OCCUPYING THE HOTEL OR MOTEL ROOM, OR IN RESPECT TO NONPAYMENT OF THE TAX BY THE PERSON OCCUPYING THE HOTEL OR MOTEL ROOM, AS IF THE TAX WERE A PART OF THE RENT OR CHARGE AND PAYABLE AT THE SAME TIME AS THE RENT OR CHARGE; PROVIDED, HOWEVER, THAT THE COUNTY TREASURER OR OTHER FISCAL OFFICERS OF THE COUNTY, SPECIFIED IN SUCH LOCAL LAW, SHALL BE JOINED AS A PARTY IN ANY ACTION OR PROCEEDING BROUGHT TO COLLECT THE TAX BY THE OWNER OR BY THE PERSON ENTITLED TO BE PAID THE RENT OR CHARGE.

(5) SUCH LOCAL LAWS MAY PROVIDE FOR THE FILING OF RETURNS AND THE PAYMENT OF THE TAX ON A MONTHLY BASIS OR ON THE BASIS OF ANY LONGER OR SHORTER PERIOD OF TIME.

(6) THIS SECTION SHALL NOT AUTHORIZE THE IMPOSITION OF SUCH TAX UPON ANY OF THE FOLLOWING:

A. THE STATE OF NEW YORK, OR ANY PUBLIC CORPORATION (INCLUDING A PUBLIC CORPORATION CREATED PURSUANT TO AGREEMENT OR COMPACT WITH ANOTHER STATE OR THE DOMINION OF CANADA), IMPROVEMENT DISTRICT OR OTHER POLITICAL SUBDIVISION OF THE STATE;

B. THE UNITED STATES OF AMERICA, INSOFAR AS IT IS IMMUNE FROM TAXATION;

C. ANY CORPORATION OR ASSOCIATION, OR TRUST, OR COMMUNITY CHEST, FUND OR FOUNDATION ORGANIZED AND OPERATED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE OR EDUCATIONAL PURPOSES, OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, AND NO PART OF THE NET EARNINGS OF WHICH INURES TO THE BENEFIT OF ANY PRIVATE SHAREHOLDER OR INDIVIDUAL AND NO SUBSTANTIAL PART OF THE ACTIVITIES OF WHICH IS CARRYING ON PROPAGANDA, OR OTHERWISE ATTEMPTING TO INFLUENCE LEGISLATION; PROVIDED, HOWEVER, THAT NOTHING IN THIS PARAGRAPH SHALL INCLUDE AN ORGANIZATION OPERATED FOR THE PRIMARY PURPOSE OF CARRYING ON A TRADE OR BUSINESS FOR PROFIT, WHETHER OR NOT ALL OF ITS PROFITS ARE PAYABLE TO ONE OR MORE ORGANIZATIONS DESCRIBED IN THIS PARAGRAPH.

(7) ANY FINAL DETERMINATION OF THE AMOUNT OF ANY TAX PAYABLE PURSUANT TO THIS SECTION SHALL BE REVIEWABLE FOR ERROR, ILLEGALITY OR UNCONSTITUTIONALITY OR ANY OTHER REASON WHATSOEVER BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES IF APPLICATION THEREFOR IS MADE TO THE SUPREME COURT WITHIN THIRTY DAYS AFTER THE GIVING OF THE NOTICE OF SUCH FINAL DETERMINATION, PROVIDED, HOWEVER, THAT ANY SUCH PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT BE INSTITUTED UNLESS:

A. THE AMOUNT OF ANY TAX SOUGHT TO BE REVIEWED, WITH SUCH INTEREST AND PENALTIES THEREON AS MAY BE PROVIDED FOR BY LOCAL LAW OR REGULATION SHALL BE FIRST DEPOSITED AND THERE IS FILED AN UNDERTAKING, ISSUED BY A SURETY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE AND APPROVED BY THE SUPERINTENDENT OF FINANCIAL SERVICES OF THIS STATE AS TO SOLVENCY AND RESPONSIBILITY, IN SUCH AMOUNT AS A JUSTICE OF THE SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE TAX CONFIRMED THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH MAY ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING; OR

B. AT THE OPTION OF THE PETITIONER SUCH UNDERTAKING MAY BE IN A SUM SUFFICIENT TO COVER THE TAXES, INTERESTS AND PENALTIES STATED IN SUCH DETERMINATION PLUS THE COSTS AND CHARGES WHICH MAY ACCRUE AGAINST IT IN THE PROSECUTION OF THE PROCEEDING, IN WHICH EVENT THE PETITIONER SHALL NOT BE REQUIRED TO PAY SUCH TAXES, INTEREST OR PENALTIES AS A CONDITION PRECEDENT TO THE APPLICATION.

(8) WHERE ANY TAX IMPOSED PURSUANT TO THIS SECTION SHALL HAVE BEEN ERRONEOUSLY, ILLEGALLY OR UNCONSTITUTIONALLY COLLECTED AND APPLICATION FOR THE REFUND THEREOF DULY MADE TO THE PROPER FISCAL OFFICER OR OFFICERS, AND SUCH OFFICER OR OFFICERS SHALL HAVE MADE A DETERMINATION DENYING SUCH REFUND, SUCH DETERMINATION SHALL BE REVIEWABLE BY A PROCEEDING UNDER ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, PROVIDED, HOWEVER, THAT SUCH PROCEEDING IS INSTITUTED WITHIN THIRTY DAYS AFTER THE GIVING OF THE NOTICE OF SUCH DENIAL, THAT A FINAL DETERMINATION OF TAX DUE WAS NOT PREVIOUSLY MADE, AND THAT AN UNDERTAKING IS FILED WITH THE PROPER FISCAL OFFICER OR OFFICERS IN SUCH AMOUNT AND WITH SUCH SURETIES AS A JUSTICE OF THE SUPREME COURT SHALL APPROVE TO THE EFFECT THAT IF SUCH PROCEEDING BE DISMISSED OR THE TAX CONFIRMED, THE PETITIONER WILL PAY ALL COSTS AND CHARGES WHICH ACCRUE IN THE PROSECUTION OF SUCH PROCEEDING.

(9) EXCEPT IN THE CASE OF A WILLFULLY FALSE OR FRAUDULENT RETURN WITH INTENT TO EVADE THE TAX, NO ASSESSMENT OF ADDITIONAL TAX SHALL BE MADE AFTER THE EXPIRATION OF MORE THAN THREE YEARS FROM THE DATE OF THE FILING OF A RETURN, PROVIDED, HOWEVER, WHERE NO RETURN HAS BEEN FILED AS PROVIDED BY LAW THE TAX MAY BE ASSESSED AT ANY TIME.

(10) ALL REVENUES RESULTING FROM THE IMPOSITION OF THE TAX UNDER THE LOCAL LAWS SHALL BE PAID INTO THE TREASURY OF THE COUNTY IMPOSING SUCH

TAX AND SHALL BE CREDITED TO AND DEPOSITED IN THE GENERAL FUND OF THE COUNTY. SUCH REVENUES MAY BE USED FOR ANY LAWFUL PURPOSE.

(11) EACH ENACTMENT OF SUCH LOCAL LAW MAY PROVIDE FOR IMPOSITION OF A HOTEL OR MOTEL TAX FOR A PERIOD OF TIME NO LONGER THAN THREE YEARS FROM THE DATE OF ITS ENACTMENT. NOTHING IN THIS SECTION SHALL PROHIBIT THE ADOPTION AND ENACTMENT OF LOCAL LAWS, PURSUANT TO THE PROVISIONS OF THIS SECTION, UPON THE EXPIRATION OF ANY OTHER LOCAL LAW ADOPTED PURSUANT TO THIS SECTION; PROVIDED, HOWEVER, THAT ANY SUCH LOCAL LAW THAT EXTENDS THE IMPOSITION OF A HOTEL OR MOTEL TAX AT OR BELOW THE RATE AT WHICH SUCH TAX WAS IMPOSED IMMEDIATELY PRIOR TO ITS EXPIRATION SHALL NOT BE SUBJECT TO THE MANDATORY REFERENDUM REQUIREMENT OF SUBDIVISION ONE OF THIS SECTION.

(12) IF ANY PROVISION OF THIS SECTION OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE SHALL BE HELD INVALID, THE REMAINDER OF THIS SECTION AND THE APPLICATION OF SUCH PROVISION TO OTHER PERSONS OR CIRCUMSTANCES SHALL NOT BE AFFECTED THEREBY.

S 4. The county law is amended by adding a new section 308-y to read as follows:

S 308-Y. ESTABLISHMENT OF COUNTY WIRELESS SURCHARGE. 1. NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, A COUNTY IN THIS STATE THAT HAS NOT ESTABLISHED A WIRELESS SURCHARGE PURSUANT TO THIS ARTICLE, ACTING THROUGH ITS LOCAL COUNTY LEGISLATIVE BODY, IS HEREBY AUTHORIZED AND EMPOWERED TO ADOPT, AMEND OR REPEAL LOCAL LAWS TO IMPOSE A SURCHARGE IN AN AMOUNT NOT TO EXCEED THIRTY CENTS PER MONTH ON WIRELESS COMMUNICATIONS SERVICE IN SUCH COUNTY, PROVIDED SUCH LOCAL LAW IN IMPOSING OR REIMPOSING SUCH TAX SHALL BE SUBJECT TO A MANDATORY REFERENDUM PURSUANT TO SECTION TWENTY-THREE OF THE MUNICIPAL HOME RULE LAW AND SHALL ONLY BE SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A GENERAL ELECTION. THE SURCHARGE SHALL BE IMPOSED ON EACH WIRELESS COMMUNICATIONS DEVICE AND SHALL BE REFLECTED AND MADE PAYABLE ON BILLS RENDERED FOR WIRELESS COMMUNICATIONS SERVICE THAT IS PROVIDED TO A CUSTOMER WHOSE PLACE OF PRIMARY USE IS WITHIN THE COUNTY. FOR PURPOSES OF THIS SECTION, THE TERM "PLACE OF PRIMARY USE" SHALL MEAN THE STREET ADDRESS THAT IS REPRESENTATIVE OF WHERE THE CUSTOMER'S USE OF THE WIRELESS COMMUNICATIONS SERVICE PRIMARILY OCCURS, WHICH ADDRESS MUST BE: (A) RESIDENTIAL STREET ADDRESS OR THE PRIMARY BUSINESS STREET ADDRESS OF THE CUSTOMER; AND (B) WITHIN THE LICENSED SERVICE AREA OF THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER.

2. ANY LOCAL LAW ADOPTED PURSUANT TO THIS SECTION SHALL STATE THE AMOUNT OF THE SURCHARGE AND THE DATE ON WHICH THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BEGIN TO ADD SUCH SURCHARGE TO THE BILLINGS OF ITS CUSTOMERS. ANY WIRELESS COMMUNICATIONS SERVICE SUPPLIER WITHIN SUCH COUNTY WHICH HAS IMPOSED A SURCHARGE PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE GIVEN A MINIMUM OF FORTY-FIVE DAYS WRITTEN NOTICE PRIOR TO THE DATE IT SHALL BEGIN TO ADD SUCH SURCHARGE TO THE BILLINGS OF ITS CUSTOMERS OR PRIOR TO ANY MODIFICATION TO OR CHANGE IN THE SURCHARGE AMOUNT.

3. (A) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SERVING SUCH COUNTY SHALL ACT AS COLLECTION AGENT FOR THE COUNTY AND SHALL REMIT THE FUNDS COLLECTED PURSUANT TO A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION TO THE CHIEF FISCAL OFFICER OF SUCH COUNTY EVERY MONTH. SUCH FUNDS SHALL BE REMITTED NO LATER THAN THIRTY DAYS AFTER THE LAST BUSINESS DAY OF THE MONTH.

(B) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ENTITLED TO RETAIN, AS AN ADMINISTRATIVE FEE, AN AMOUNT EQUAL TO TWO PERCENT OF ITS COLLECTIONS OF A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION.

(C) ANY SURCHARGE REQUIRED TO BE COLLECTED BY A WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE ADDED TO AND STATED SEPARATELY IN ITS BILLINGS TO CUSTOMERS.

(D) EACH WIRELESS COMMUNICATIONS SERVICE CUSTOMER WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION SHALL BE LIABLE TO SUCH COUNTY FOR THE SURCHARGE UNTIL IT HAS BEEN PAID TO SUCH COUNTY EXCEPT THAT PAYMENT TO A WIRELESS COMMUNICATIONS SERVICE SUPPLIER IS SUFFICIENT TO RELIEVE THE CUSTOMER FROM FURTHER LIABILITY FOR SUCH SURCHARGE.

(E) NO WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL HAVE A LEGAL OBLIGATION TO ENFORCE THE COLLECTION OF ANY SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION, PROVIDED, HOWEVER, THAT WHENEVER THE WIRELESS COMMUNICATIONS SERVICE SUPPLIER REMITS THE FUNDS COLLECTED TO SUCH COUNTY, IT SHALL ALSO PROVIDE SUCH COUNTY WITH THE NAME AND ADDRESS OF ANY CUSTOMER REFUSING OR FAILING TO PAY A SURCHARGE IMPOSED UNDER THE PROVISIONS OF THIS SECTION AND SHALL STATE THE AMOUNT OF SUCH SURCHARGE REMAINING UNPAID.

(F) EACH WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL ANNUALLY PROVIDE TO SUCH COUNTY AN ACCOUNTING OF THE SURCHARGE AMOUNTS BILLED AND COLLECTED.

4. ALL SURCHARGE MONIES REMITTED TO SUCH COUNTY BY A WIRELESS COMMUNICATIONS SERVICE SUPPLIER SHALL BE EXPENDED ONLY UPON AUTHORIZATION OF THE LOCAL COUNTY LEGISLATIVE BODY AND ONLY FOR PAYMENT OF ELIGIBLE WIRELESS 911 SERVICE COSTS AS DEFINED IN SUBDIVISION SIXTEEN OF SECTION THREE HUNDRED TWENTY-FIVE OF THIS CHAPTER. SUCH COUNTY SHALL SEPARATELY ACCOUNT FOR AND KEEP ADEQUATE BOOKS AND RECORDS OF THE AMOUNT AND SOURCE OF ALL SUCH MONIES AND OF THE AMOUNT AND OBJECT OR PURPOSE OF ALL EXPENDITURES THEREOF. IF, AT THE END OF ANY FISCAL YEAR, THE TOTAL AMOUNT OF ALL SUCH MONIES EXCEEDS THE AMOUNT NECESSARY FOR PAYMENT OF THE ABOVE MENTIONED COSTS IN SUCH FISCAL YEAR, SUCH EXCESS SHALL BE RESERVED AND CARRIED OVER FOR THE PAYMENT OF THOSE COSTS IN THE FOLLOWING FISCAL YEAR.

S 5. Subdivision 16 of section 325 of the county law, as added by section 1 of part G of chapter 81 of the laws of 2002, is amended to read as follows:

16. "Eligible wireless 911 service costs" shall mean costs eligible for reimbursement and shall include the actual costs incurred by the locality related to the design, installation, OPERATION, or maintenance of a system to provide enhanced wireless 911 service, including, but not limited to, hardware, software, consultants, financing and other acquisition costs.

S 6. Subdivision 3 of section 4173 of the public health law, as amended by chapter 524 of the laws of 2007, is amended to read as follows:

3. (A) The registrar shall be entitled to a fee of ten dollars[, except in the county of Chemung and the county of Monroe and the county of Onondaga and the county of Tompkins whereby such fee shall be set by the county health commissioner and in the city of Oswego whereby such fee shall be set by the Oswego common council, up to the amount charged by the commissioner as prescribed in subdivision two of section forty-one hundred seventy-four of this title] for each certification of birth or death or for each certified copy or certified transcript of any record of a birth or of a death or for a certification that a search discloses no record of a birth or of a death, furnished by him to an applicant, except that no fee shall be charged for a search, certification of birth or death or certified copy or certified transcript of a birth or a death record to be used for school entrance, employment

certificate or for purposes of public relief or government compensation or when required by the veterans administration to be used in determining the eligibility of any person to participate in the benefits made available by the veterans administration, provided, however, that if such registrar is a city clerk, town clerk or village clerk, he shall collect such fees for and on behalf of the city, town or village in which he serves, provided, however, that an amount equivalent to the sum of such fees shall be paid at least monthly by such city, town or village to such city clerk, town clerk or village clerk entitled to receive fees as a registrar of vital statistics.

(B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, IN THE FOLLOWING COUNTY JURISDICTIONS THE FEE SHALL BE SET BY THE COUNTY HEALTH COMMISSIONER: CHEMUNG, MONROE, ONONDAGA, TOMPKINS; AND IN THE FOLLOWING LOCAL JURISDICTIONS THE FEE SHALL BE SET BY THE LOCAL LEGISLATIVE BODY: CITY OF OSWEGO. IN SUCH JURISDICTIONS, THE FEE MAY BE SET UP TO THE AMOUNT CHARGED BY THE COMMISSIONER AS PRESCRIBED IN SUBDIVISION TWO OF SECTION FORTY-ONE HUNDRED SEVENTY-FOUR OF THIS TITLE. IN ADDITION, EXCLUDING THE COUNTIES OF CHEMUNG, MONROE, ONONDAGA, AND TOMPKINS AND THE CITY OF OSWEGO, A LOCAL LEGISLATIVE BODY SHALL HAVE THE ABILITY, UPON PASSAGE OF A LOCAL LAW SUBJECT TO MANDATORY REFERENDUM PURSUANT TO SECTION TWENTY-THREE OF THE MUNICIPAL HOME RULE LAW, TO INCREASE THE FEE AUTHORIZED PURSUANT TO THIS SUBDIVISION UP TO THE AMOUNT CHARGED BY THE COMMISSIONER AS PRESCRIBED IN SUBDIVISION TWO OF SECTION FORTY-ONE HUNDRED SEVENTY-FOUR OF THIS TITLE AND PROVIDED THAT SUCH LOCAL LAW BE SUBMITTED FOR THE APPROVAL OF THE ELECTORS AT A GENERAL ELECTION.

S 7. This act shall take effect on January 1, 2013; provided that section one of this act shall expire on December 31, 2013 for those counties that have not enacted a local law authorized by such section that was approved by the voters in the 2013 general election; section three of this act shall expire on December 31, 2013 for those counties that have not enacted a local law authorized by such section that was approved by the voters in the 2013 general election; section four of this act shall expire on December 31, 2013 for those counties that have not enacted a local law authorized by such section that was approved by the voters in the 2013 general election; and section six of this act shall expire on December 31, 2013 for those municipalities that have not enacted a local law authorized by such section that was approved by the voters in the 2013 general election.