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

5837

2013-2014 Regular Sessions

I N  S E N A T E

June 17, 2013

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, the banking law, the benevolent orders law, the education law, the general business law, the insurance law, the mental hygiene law, the public authorities law, the private housing finance law, the public lands law, the racing, pari-mutuel wagering and breeding law, the religious corporations law, the surrogate's court procedure act, the not-for-profit corporation law, the estates, powers and trusts law, chapter 880 of the laws of 1937 relating to incorporating the trustees of T.I.A.A. stock, and chapter 124 of the laws of 1952 relating to incorporating the College Retirement equities fund for the benefit of the teaching profession, in relation to reform of charitable organizations; and to repeal certain provisions of the not-for-profit corporation law relating thereto

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

Section 1. This act shall be known and may be cited as the "non-profit revitalization act of 2013".

S 2. Subdivision 9 of section 171-a of the executive law, as amended by chapter 353 of the laws of 1987, is amended to read as follows:

9. "Fund raising counsel." Any person who for compensation consults with a charitable organization or who plans, manages, advises, or assists with respect to the solicitation in this state of contributions for or on behalf of a charitable organization, but who does not have access to contributions or other receipts from a solicitation or authority to pay expenses associated with a solicitation and who does not solicit. A bona fide officer, volunteer, or employee of a charitable organization or an attorney at law retained by a charitable organization OR AN INDIVIDUAL ENGAGED SOLELY TO DRAFT APPLICATIONS FOR FUNDING FROM A GOVERNMENTAL AGENCY OR AN ENTITY EXEMPT FROM TAXATION PURSUANT TO

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

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SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, shall not be deemed a fund raising counsel.

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

1. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year gross revenue and support in excess of [two hundred fifty thousand] ONE MILLION dollars [and every charitable organization whose fund-raising functions are not carried on solely by persons who are unpaid for such services] shall file with the attorney general an annual written financial report, on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. The annual financial report shall be accompanied by an annual financial statement which includes an independent certified public accountant's audit report containing an opinion that the financial statements are presented fairly in all material respects and in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge, and shall be accompanied by an opinion signed by an independent public accountant that the financial statement and balance sheet therein present fairly the financial operations and position of the organization. A fee of twenty-five dollars payable to the attorney general shall accompany such financial report at the time of filing, provided however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

2. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in gross revenue and support in any fiscal year at least [one hundred] TWO HUNDRED FIFTY thousand dollars but not more than [two hundred fifty thousand] ONE MILLION dollars shall file an annual financial report. The annual financial report shall be accompanied by an annual financial statement which includes an independent certified public accountant's review report in accordance with "statements on standards for accounting and review services" issued by the American Institute of Certified Public Accountants. The annual financial statement shall be prepared in conformity with generally accepted accounting principles, including compliance with all pronouncements of the financial accounting standards board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations. Such financial report shall be filed with the attorney general, upon forms prescribed by the attorney general on an annual basis on or before the fifteenth day of the fifth calendar month after the close of such fiscal year, which shall include a financial report covering such fiscal year in accordance with such require-

ments as the attorney general may prescribe. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of ten dollars payable to the attorney general shall accompany such financial report at the time of filing, provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law. NOTWITHSTANDING THE REQUIREMENTS OF THIS SECTION, IF UPON REVIEW OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S REVIEW REPORT FILED PURSUANT TO THIS SUBDIVISION, THE ATTORNEY GENERAL DETERMINES THAT A CHARITABLE ORGANIZATION SHOULD OBTAIN AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT REPORT, SUCH ORGANIZATION SHALL OBTAIN AND FILE WITH THE ATTORNEY GENERAL AN AUDIT REPORT THAT MEETS THE REQUIREMENTS OF SUBDIVISION ONE OF THIS SECTION WITHIN ONE HUNDRED TWENTY DAYS OF THE ATTORNEY GENERAL'S REQUEST FOR SUCH REPORT.

2-a. Every charitable organization registered or required to be registered pursuant to section one hundred seventy-two of this article which shall receive in any fiscal year of such organization gross revenue and support not in excess of [one hundred thousand] TWO HUNDRED FIFTY THOUSAND dollars shall file with the attorney general an unaudited financial report on forms prescribed by the attorney general, on or before the fifteenth day of the fifth calendar month after the close of such fiscal year. Such financial report shall include a statement of any changes in the information required to be contained in the registration form filed on behalf of such organization. The financial report shall be signed by the president or other authorized officer and the chief fiscal officer of the organization who shall certify under penalties for perjury that the statements therein are true and correct to the best of their knowledge. A fee of ten dollars payable to the attorney general shall accompany such financial report at the time of filing. Provided, however, that any such organization that is registered with the attorney general pursuant to article eight of the estates, powers and trusts law is required to file only one annual financial report which meets the filing requirements of this article and section 8-1.4 of the estates, powers and trusts law.

S 4. Subdivision 1 of section 177 of the executive law, as amended by chapter 83 of the laws of 1995, is amended to read as follows:

1. The attorney general shall make rules and regulations necessary for the administration of this article including, but not limited to regulations and waiver procedures that will ensure that charitable organizations do not have to register twice in relation to the solicitation and administration of assets, AND RULES OR REGULATIONS ALLOWING OR REQUIRING ANY SUBMISSION TO THE ATTORNEY GENERAL TO BE EFFECTED BY ELECTRONIC MEANS.

S 5. Section 579 of the banking law, as amended by chapter 629 of the laws of 2002, is amended to read as follows:

S 579. Doing business without license prohibited. Only a [type B not-for-profit] CHARITABLE corporation as defined in [section two hundred one] PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) of the not-for-profit corporation law of this state, or an entity incorporated in

another state and having a similar not-for-profit status, shall engage in the business of budget planning as defined in subdivision one of section four hundred fifty-five of the general business law of this state except as authorized by this article and without first obtaining a license from the superintendent.

S 6. Paragraph (c) of subdivision 1 of section 1-a of the benevolent orders law, as added by chapter 703 of the laws of 1970, is amended to read as follows:

(c) The following provisions of the not-for-profit corporation law shall not apply to benevolent orders: [section one hundred thirteen,] section two hundred one, article four, paragraphs (a), (b), and (c) of section eight hundred four, section nine hundred seven, section nine hundred eight, section nine hundred nine, [section ten hundred eleven,] section ten hundred twelve, and article fourteen.

S 6-a. Section 216 of the education law, as amended by chapter 901 of the laws of 1972, the closing paragraph as added by chapter 316 of the laws of 2005, is amended to read as follows:

S 216. Charters. Under such name, with such number of trustees or other managers, and with such powers, privileges and duties, and subject to such limitations and restrictions in all respects as the regents may prescribe in conformity to law, they may, by an instrument under their seal and recorded in their office, incorporate any university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history or other department of knowledge, or of education in any way, associations of teachers, students, graduates of educational institutions, and other associations whose approved purposes are, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the university. No [institution or association which might be incorporated by the regents under this chapter shall, without their consent,] SCHOOL; COLLEGE; UNIVERSITY OR OTHER ENTITY PROVIDING POST SECONDARY EDUCATION; LIBRARY; OR MUSEUM OR HISTORICAL SOCIETY SHALL be incorporated under THE BUSINESS CORPORATION LAW, THE NOT-FOR-PROFIT CORPORATION LAW, OR any other general law WITHOUT THE CONSENT OF THE COMMISSIONER OR, IN THE CASE OF A COLLEGE OR UNIVERSITY, WITHOUT THE WRITTEN AUTHORIZATION OF THE REGENTS. [An institution or association which might be incorporated by the regents under this chapter may, with the consent of the commissioner of education, be formed under the business corporation law or pursuant to the not-for-profit corporation law if such consent of the commissioner of education is attached to its certificate of incorporation.]

No individual, association, partnership, company or corporation not authorized by special charter from the legislature of this state or by charter from the regents to operate a museum, or arboretum shall knowingly use, advertise or transact business under the names "museum," or "arboretum," or any name, title or descriptive material indicating or tending to imply that said individual, association, partnership, company or corporation conducts, carries on, or is such a business when it is not, or that it is authorized to operate as such, unless the right to do so has been granted by the regents or the commissioner in writing. Any violation of this paragraph shall be a misdemeanor. Notwithstanding any other provision of this section, an individual, association, partnership, company or corporation doing business under any of such names on the effective date of this paragraph may come into compliance with this paragraph by obtaining consent of the regents or the commissioner within one year of such effective date.

S 7. Paragraph c of subdivision 4 of section 216-a of the education law, as added by chapter 901 of the laws of 1972, is amended to read as follows:

c. The following provisions of the not-for-profit corporation law shall not apply to education corporations: section one hundred five, [section one hundred thirteen,] section one hundred fourteen, paragraph (a) of section two hundred one, paragraphs (b) and (c) of section two hundred two, section two hundred five, section three hundred one, section three hundred two, section three hundred three, article four except paragraphs (b) through (p) of section four hundred four and section four hundred five, section five hundred nine, [section five hundred eighteen,] section five hundred twenty-one to the extent that it refers to [section five hundred eighteen,] paragraph (d) of section seven hundred six, article eight except section eight hundred four, section nine hundred seven, [section one thousand eleven,] section one thousand twelve and article fourteen.

S 8. Subdivision 5 of section 216-a of the education law, as added by chapter 901 of the laws of 1972, is amended to read as follows:

5. Every corporation to which the not-for-profit corporation law is made applicable by this section, is a [type B] CHARITABLE corporation AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW under all applicable provisions of that law.

S 9. Section 223 of the education law, as amended by chapter 106 of the laws of 1974, is amended to read as follows:

S 223. Consolidation OR MERGER of corporations. Any two or more corporations chartered under the powers of the regents or incorporated under a special act of the legislature or under a general law for purposes for which a charter may be granted by the regents may enter into an agreement for the consolidation OR MERGER of such corporations, setting forth the terms and conditions of consolidation OR MERGER, the name of the proposed CONSOLIDATED OR MERGED corporation, the place or places where the institution or institutions to be maintained is or are to be located, the number of its directors, which may be five or more, the time of the annual election and the names of the persons to be directors until the first OR NEXT annual meeting.

The agreement must be approved by three-fourths of the trustees or directors of such [corporation] CORPORATIONS at a meeting of the trustees or directors of each corporation, separately and specially called for that purpose, which approval, duly verified by the chairman and clerk of such meeting, shall be annexed to the petition. On presentation of a petition, together with the certificate of approval and the agreement for consolidation OR MERGER, and on such notice to interested parties as the regents shall prescribe, and after hearing such interested parties as desire to be heard, the regents may make and execute an order for the consolidation OR MERGER of the corporations on such terms and conditions as the regents may prescribe. When such order is made, such corporations shall become one corporation by the name designated in the order, and shall be subject only to such duties and obligations as a corporation formed under this chapter for the same purposes; and all the property belonging to the corporations so consolidated OR MERGED shall be vested in and transferred to the new OR SURVIVING corporation, which shall be subject to all the liabilities of the former corporations, to the same extent as if they had been contracted or incurred by it. If any corporation so consolidated OR MERGED was incorporated under a special act of the legislature or under a general law pursuant to which

its certificate of incorporation was filed with the department of state, the regents shall deliver a certified copy of the order of consolidation OR MERGER to such department.

S 10. Subdivision 4 of section 455 of the general business law, as amended by chapter 456 of the laws of 2006, is amended to read as follows:

4. Person or entity as used in this article shall not include a [type B not-for-profit] CHARITABLE corporation as defined in [section two hundred one] PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) of the not-for-profit corporation law of this state, or an entity incorporated in another state and having a similar not-for-profit status, licensed by the superintendent, to engage in the business of budget planning as defined in this section.

S 11. Paragraph (a) of subdivision 1 of section 458-b of the general business law, as added by chapter 386 of the laws of 1986, is amended to read as follows:

(a) Any [type B not-for-profit] CHARITABLE corporation AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW licensed pursuant to article twelve-c of the banking law.

S 12. Subsection (a) of section 3435 of the insurance law, as added by chapter 220 of the laws of 1986, is amended to read as follows:

(a) This section shall apply to public entities as defined in section one hundred seven of this chapter, organizations described by section 501(c)(3) of the United States internal revenue code, [Type B] CHARITABLE corporations AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW AND formed pursuant to paragraph [(b)] (A) of section two hundred one of the not-for-profit corporation law, and organizations described by section two hundred sixteen-a of the education law.

S 13. Subsection (a) of section 6703 of the insurance law, as added by chapter 598 of the laws of 2000, is amended to read as follows:

(a) A corporation may be organized as a [type B] CHARITABLE corporation pursuant to paragraph [(b)] (A) of section two hundred one of the not-for-profit corporation law or as a nonprofit reciprocal insurer under article sixty-one of this chapter to write the kinds of insurance specified in subsection (a) of section one thousand one hundred thirteen of this chapter other than (1) those types of insurance specified in paragraphs one, two, eighteen, twenty-two, twenty-three and twenty-five of such subsection, (2) insurance against legal liability of the insured, and against loss, damage or expense incident to a claim of such liability arising out of death or injury of any person, due to medical or hospital malpractice by any licensed physician or hospital, and (3) insurance subject to section three thousand four hundred twenty-five of this chapter.

S 14. The opening paragraph of subsection (b) of section 6704 of the insurance law, as added by chapter 598 of the laws of 2000, is amended to read as follows:

The superintendent may pursuant to this article issue a license to a nonprofit property/casualty insurance company that is organized as a [type B] CHARITABLE corporation [pursuant to paragraph (b) of section two hundred one] AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) of the not-for-profit corporation law if such company:

S 15. Subsection (a) of section 6706 of the insurance law, as added by chapter 598 of the laws of 2000, is amended to read as follows:

(a) Except as otherwise provided in this article, where inconsistent with this article, or where the context otherwise requires, all of the provisions of this chapter and the rules and regulations of the superintendent, relating to all insurers and those relating to property/casualty insurance companies transacting the same kind or kinds of insurance shall be applicable to a nonprofit property/casualty insurance company organized as a [type B] CHARITABLE corporation AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW AND FORMED pursuant to paragraph [(b)] (A) of section two hundred one of the not-for-profit corporation law and licensed pursuant to subsection (b) of section six thousand seven hundred four of this article. Where any of such provisions of law refer to a corporation, company or insurer, such references, when read in connection with and applicable to this article, shall mean such a nonprofit property/casualty insurance company.

S 16. Subdivision (b) of section 16.32 of the mental hygiene law, as amended by chapter 669 of the laws of 1995, is amended to read as follows:

(b) No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by a not-for-profit corporation which is certified as a provider of services pursuant to this article to its employee who receives an annual salary in excess of thirty thousand dollars, or to any other corporation, firm, association or other entity in which such employee is a director or officer or employee or holds a direct or indirect substantial financial interest, except a loan by one corporation incorporated as a [type B] CHARITABLE corporation [pursuant to] AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF the not-for-profit corporation law to another type B corporation, or a loan for a temporary or emergency purpose which will further the health and welfare of the employee so long as the purpose and amount of such loan are disclosed to and approved by the board of directors of such agency. Such disclosure shall be filed with the secretary of the corporation and entered in the minutes of the meeting, and, if approved by such board, such disclosure shall also be forwarded in writing to the commissioner and to the director of community services of each local governmental unit that has, at the time of such disclosure, a contract with such corporation for the rendition of services pursuant to article forty-one of this chapter. A loan made in violation of this section shall be a violation of the duty to the not-for-profit corporation of the directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

S 17. Subdivision (b) of section 31.31 of the mental hygiene law, as amended by chapter 669 of the laws of 1995, is amended to read as follows:

(b) No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by a not-for-profit corporation which is licensed as a provider of services pursuant to this article to its employee who receives an annual salary in excess of thirty thousand dollars, or to any other corporation, firm, association or other entity in which such employee is a director or officer or employee or holds a direct or indirect substantial financial interest, except a loan by one corporation incorporated as a [type B] CHARITABLE corporation [pursuant to] AS DEFINED IN PARAGRAPH (A) OF SECTION ONE

HUNDRED TWO (DEFINITIONS) OF the not-for-profit corporation law to another type B corporation, or a loan for a temporary or emergency purpose which will further the health and welfare of the employee so long as the purpose and amount of such loan are disclosed to and approved by the board of directors of such agency. Such disclosure shall be filed with the secretary of the corporation and entered in the minutes of the meeting, and, if approved by such board, such disclosure shall also be forwarded in writing to the commissioner and to the director of community services of each local governmental unit that has, at the time of such disclosure, a contract with such corporation for the rendition of services pursuant to article forty-one of this chapter. A loan made in violation of this section shall be a violation of the duty to the not-for-profit corporation of the directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

S 18. Subdivision 1 of section 1825 of the public authorities law, as amended by chapter 1045 of the laws of 1974, is amended to read as follows:

1. The corporation shall (a) be incorporated or reincorporated under [article nineteen of the membership corporations law, or under] section fourteen hundred eleven of the not-for-profit corporation law, or (b) be incorporated under [article two of the membership corporations law, or under] article four of the not-for-profit corporation law, in addition to other purposes, to construct new industrial or manufacturing plants or new research and development buildings and acquire machinery and equipment deemed related thereto or acquire, rehabilitate, and improve for use by others, industrial or manufacturing plants in the area of the state in which an assisted project is to be located, to assist financially in such construction, acquisition, rehabilitation and improvement and to maintain such plants, buildings and equipment for others, and may also be authorized to study and promote, alone or in concert with local officials and interested local groups, the economic growth and business prosperity of the area and the solution of other civic problems of the region which includes such areas[, and (c) if incorporated or reincorporated under the membership corporations law, have complied with the requirements of section one hundred thirteen of the not-for-profit corporation law].

S 19. Subdivision 2 of section 13-a of the private housing finance law, as added by chapter 547 of the laws of 1971, is amended to read as follows:

2. Every corporation to which the not-for-profit corporation law is made applicable by this section is a [type B] CHARITABLE corporation AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW for all purposes of that law.

S 20. Paragraph (f) of subdivision 7 of section 75 of the public lands law, as added by chapter 791 of the laws of 1992, is amended to read as follows:

(f) The commissioner, in consultation with the commissioner of environmental conservation, the secretary of state, the office of parks, recreation and historic preservation and other interested state agencies administering state-owned lands underwater, shall promulgate pursuant to article two of the state administrative procedure act such rules with respect to grants, leases, easements and lesser interests for the use of state-owned land underwater, and the cession of jurisdiction thereof, as in his or her judgment are reasonable and necessary to protect the interests of the people in such lands underwater. Such regulations shall

include without being limited to: the fees to be charged, consistent with the provisions of this section, including mitigation of such fees in the event of economic hardship on existing commercial enterprises; fee limitations to administrative expenses for municipal uses which are public, non-commercial and offer services free or for nominal fees, and for uses undertaken and operated for public and non-commercial purposes by not-for-profit corporations characterized as ["Type B"] CHARITABLE corporations [pursuant to paragraph (b) of section two hundred one] AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) of the not-for-profit corporation law, and for uses undertaken and operated for public purposes by a corporation formed pursuant to the religious corporation law or by a corporation formed pursuant to A special act of this state and which has as its principal purpose a religious purpose; such further exemptions for projects as the commissioner determines do not represent significant encroachments; limitations on grants, including conversion grants, with respect to underwater lands consistent with the public purposes of this subdivision and limiting such grants to exceptional circumstances; and factors to be examined in considering an application for a lease, easement or other interest. Those factors shall include without limitation the following: (i) the environmental impact of the project; (ii) the values for natural resource management, recreational uses, and commercial uses of the pertinent underwater land; (iii) the size, character and effects of the project in relation to neighboring uses; (iv) the potential for interference with navigation, public uses of the waterway and rights of other riparian owners; (v) the effect of the project on the natural resource interests of the state in the lands; (vi) the water-dependent nature of the use; (vii) and any adverse economic impact on existing commercial enterprises. The final promulgation of rules establishing fees or fee structures shall be subject to the approval of the director of the budget.

S 21. Section 202 of the racing, pari-mutuel wagering and breeding law, as amended by chapter 18 of the laws of 2008, is amended to read as follows:

S 202. Restriction upon commencement of business. No business corporation organized under the provisions of this article shall engage in the prosecution or management of its business until the whole of its capital stock shall have been subscribed, nor until it shall have filed in the offices where certificates of incorporation were filed, a further certificate stating that the whole of its capital stock has been in good faith subscribed, executed and acknowledged by its president or vice-president and treasurer or secretary, and verified by them to the effect that the statements contained in it are true.

Notwithstanding the foregoing, corporations organized pursuant to section two hundred one of the not-for-profit corporation law as [type C] CHARITABLE corporations AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW shall not engage in the prosecution or management of its business until its certificate of incorporation has been accepted for filing by the secretary of state and such confirmation of filing has been filed with the board and the franchise oversight board.

S 22. Paragraph (c) of subdivision 1 of section 2-b of the religious corporations law, as amended by chapter 490 of the laws of 2010, is amended to read as follows:

(c) The following provisions of the not-for-profit corporation law shall not apply to religious corporations: subparagraphs (7) and (8) of paragraph (a) of section one hundred twelve, [section one hundred thir-

teen,] section one hundred fourteen, section two hundred one, section three hundred three, section three hundred four, section three hundred five, section three hundred six, article four except section four hundred one, section five hundred fourteen, that portion of section five hundred fifty-five (b) and section five hundred fifty-five (c) which reads "The institution shall notify the donor, if available, and the attorney general of the application, and the attorney general and such donor must be given an opportunity to be heard", section six hundred five, section six hundred seven, section six hundred nine, section eight hundred four, article nine except section nine hundred ten, article ten except as provided in section eleven hundred fifteen, section eleven hundred two, and article fifteen except paragraph (c) of section fifteen hundred seven.

S 23. Subdivision 2 of section 2-b of the religious corporations law, as added by chapter 956 of the laws of 1971, is amended to read as follows:

2. Every corporation to which the not-for-profit corporation law is made applicable by this section is a [type B] CHARITABLE corporation AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) OF THE NOT-FOR-PROFIT CORPORATION LAW for all purposes of that law.

S 24. Section 13 of the religious corporations law, as amended by chapter 705 of the laws of 1970, is amended to read as follows:

S 13. Consolidation OR MERGER of incorporated churches. Two or more incorporated churches may enter into an agreement, under their respective corporate seals, for the consolidation OR MERGER of such corporations, setting forth the name of the proposed new corporation OR SURVIVING CORPORATION, the denomination, if any, to which it is to belong, and if the churches of such denomination have more than one method of choosing trustees, by which of such methods the trustees are to be chosen, the number of such trustees, the names of the persons to be the first trustees of the new corporation, and the date of its first annual corporate meeting. Such an agreement shall not be valid for United Methodist churches unless proposed by a majority vote of the charge conference of each church and approved by the superintendent or superintendents of the district or districts in which the consolidating churches are located, and by the majority of the members of each of such churches, over the age of twenty-one years, present and voting at a meeting thereof held in the usual place of public worship and called for the purpose of considering such agreement by announcement made at public service in such churches on two Sundays, the first not less than ten days next preceding the date of such meeting. Such agreement shall not be valid unless approved in the case of Protestant Episcopal churches by the bishop and standing committee of the diocese in which such churches are situated and in the case of churches of other denominations by the governing body of the denomination, if any, to which each church belongs, having jurisdiction over such church. Each corporation shall thereupon make a separate petition to the supreme court for an order consolidating OR MERGING the corporations, setting forth the denomination, if any, to which the church belongs, that the consent of the governing body to the consolidation OR MERGER, if any, of that denomination having jurisdiction over such church has been obtained, the agreement therefor, and a statement of all the property and liabilities and the amount and sources of the annual income of such petitioning corporation. In its discretion the court may direct that notice of the hearing of such petition be given to the parties interested therein in such manner and for such time as it may prescribe. After hearing all

the parties interested, present and desiring to be heard, the court may make an order for the consolidation OR MERGER of the corporations on the terms of such agreement and such other terms and conditions as it may prescribe, specifying the name of such new OR SURVIVING corporation and the [first] trustees thereof, and the method by which their successors shall be chosen and the date of its first OR NEXT annual corporate meeting. When such order is made and duly entered, the persons constituting such CONSOLIDATED OR MERGED corporations shall BE OR become an incorporated church by, and said petitioning churches shall become consolidated OR MERGED under, the name designated in the order, and the trustees therein named shall be the [first] trustees thereof, and the future trustees thereof shall be chosen by the method therein designated, and all the estate, rights, powers and property of whatsoever nature belonging to either corporation shall without further act or deed be vested in and transferred to the new OR SURVIVING corporation as effectually as they were vested in or belonging to the former corporations; and the said new OR SURVIVING corporation shall be liable for all the debts and liabilities of the former corporations in the same manner and as effectually as if said debts or liabilities had been contracted or incurred by the new OR SURVIVING corporation. A certified copy of such order shall be recorded in the book for recording certificates of incorporation in each county clerk's office in which the certificate of incorporation of each consolidating OR MERGING church was recorded; or if no such certificate was so recorded, then in the clerk's office of the county in which the principal place of worship or principal office of the new OR SURVIVING corporation is, or is intended to be, situated.

S 25. Section 15-a of the religious corporations law, as added by chapter 108 of the laws of 1965, subdivisions 2, 3 and 8 as amended by chapter 381 of the laws of 1985, is amended to read as follows:

S 15-a. Consolidation of incorporated presbyteries. 1. Two or more incorporated presbyteries may enter into an agreement for the consolidation OR MERGER of such corporations and such corporations may be consolidated OR MERGED so as to form a single corporation which may be either a new corporation or one of the [constitutent] CONSTITUENT corporations. Said agreement shall set forth the name of the proposed new corporation or the name of the existing corporation if it is to become the consolidated OR MERGED corporation, the method of choosing trustees, the names of the persons to be the first trustees of the new corporation if the consolidated OR MERGED corporation is to be a new corporation and the date of the first annual corporate meeting.

2. Such agreement must be authorized and approved by a majority vote of the members of each contracting presbytery taken at a meeting at which a quorum is present duly called in accordance with the form of government of the Presbyterian Church (U.S.A.) and the notice of such meeting shall state the purpose of the meeting.

3. Before such agreement is approved as aforesaid, such consolidation OR MERGER must be directed and approved by the Synod of the Northeast and the General Assembly of the Presbyterian Church (U.S.A.).

4. Each presbytery shall thereafter join in a petition to the supreme court for an order consolidating OR MERGING the corporation, setting forth the agreement of the contracting presbyteries, the direction and approval of the bodies as set forth in subdivision three [hereof] OF THIS SECTION, a statement of all the property and liabilities and the sources of the annual income of each presbytery and a description of any property held by such presbyteries in trust for specific purposes. In its discretion the court may direct that notice of the hearing of such

petition be given to the parties interested therein in such manner as it may prescribe.

5. After hearing all the parties interested, present and desiring to be heard, the court may make an order for the consolidation OR MERGER of the presbyteries on the terms of such agreement and such other terms and conditions as it may prescribe, specifying the name of the new corporation or the name the continuing corporation will have if one of the [constitutent] CONSTITUENT corporations is to become the consolidated OR MERGED corporation, the first trustees thereof if a new corporation is to be created and the method by which their successors shall be chosen and the date of the first annual corporate meeting if a new corporation is to be created.

6. When such order is made and duly entered, the persons constituting such corporate presbyteries shall become one incorporated consolidated OR MERGED presbytery by, and said petitioning presbyteries shall become consolidated OR MERGED under, the name designated in the order, and the trustees therein named, if it is a new corporation, shall be the first trustees thereof, and if it is a new corporation the trustees thereof shall be chosen by the method therein designated, and all the estate, rights, powers and property of whatsoever nature, belonging to either corporation shall without further act or deed be vested in and/or transferred to the new corporation as effectually as they were vested in or belonging to the former corporations, and the new or continuing corporations shall be liable for all the debts and liabilities of the former corporations in the same manner and as effectually as if said debts or liabilities had been contracted or incurred by the new corporation.

7. The order or a certified copy thereof shall be recorded in the book for recording certificates of incorporation in each county clerk's office in which the certificate of incorporation of each constituent presbytery was recorded.

8. Such consolidated OR MERGED presbytery shall have all the powers and responsibilities conferred upon presbyteries by the constitution and form of government of the Presbyterian Church (U.S.A.).

S 26. Section 208 of the religious corporations law, as added by chapter 117 of the laws of 1927, is amended to read as follows:

S 208. Consolidation. Any two or more religious corporations of the Jewish faith, incorporated under or by general or special laws, may enter into an agreement for the consolidation OR MERGER of such corporations, setting forth the terms and conditions of consolidation, the name of the proposed OR SURVIVING corporation, the number of its trustees, the time of the annual election and the names of the persons to be its trustees until the first OR NEXT annual meeting. Each corporation may petition the supreme court for an order consolidating OR MERGING the corporations, setting forth the agreement for consolidation OR MERGER and a statement of its real property and of its liabilities. Before the presentation of the petition to the court the agreement and petition must be approved by two-thirds of the votes cast in person or by proxy at a meeting of the members of each corporation called for the purpose of considering the proposed consolidation OR MERGER in the manner prescribed by section [forty-three of the membership corporations law] SIX HUNDRED FIVE OF THE NOT-FOR-PROFIT CORPORATION LAW. An affidavit by the president and the secretary of each corporation stating that such approval has been given shall be annexed to the petition. On presentation to the court of such petition and agreement for consolidation OR MERGER and on such notice as the court may direct, the court after hearing all the parties interested desiring to be heard, may make an order

approving the consolidation OR MERGER. When such order is made and duly entered and a certified copy thereof filed with the secretary of state and in the offices of the clerks of the counties in which the certificates of incorporation of the several constituent corporations were recorded, or if no such certificate was recorded, then in the office of the clerk of the county in which the principal place of worship of the new OR SURVIVING corporation is intended to be situated, such corporations shall become one corporation by the name designated in the order and the trustees named in the agreement for consolidation OR MERGER shall be the [first] trustees of the consolidated corporation.

S 27. Section 209 of the religious corporations law, as added by chapter 117 of the laws of 1927, is amended to read as follows:

S 209. Effect of consolidation. The consolidated OR MERGED corporation shall possess all the powers of the constituent corporations and shall have the power and be subject to the duties and obligations of a congregation of the Jewish faith formed for like purposes under the religious corporations law. All the rights, privileges and interests of each of the constituent corporations, all the property, real, personal and mixed, and all the debts due on whatever account to either of them, and all things in action, belonging to either of them, shall be deemed to be transferred to and vested in such new corporation without further act or deed; and all claims, demands[.], property, and every other interest, belonging to the several constituent corporations, shall be as effectually the property of the new corporation as they were of the constituent corporations, and the title to all real property, held or taken by deed or otherwise under the laws of this state, vested in the several constituent corporations shall not be deemed to revert or to be in any way impaired by reason of the consolidation but shall be vested in the new corporation. Any devise, bequest, gift, grant, or declaration of trust, contained in any deed, will, or other instrument, in trust or otherwise, made before or after such consolidation, OR MERGER to or for any of the constituent corporations, shall inure to the benefit of the consolidated OR MERGED corporation. The consolidated corporation shall be deemed to have assumed and shall be liable for all debts and obligations of the constituent corporations in the same manner as if such new corporation had itself incurred such debts or obligations.

S 28. Subdivision 2 of section 711 of the surrogate's court procedure act is amended to read as follows:

2. Where by reason of his having wasted or improperly applied the assets of the estate, or made investments unauthorized by law or otherwise improvidently managed or injured the property committed to his charge, INCLUDING BY FAILING TO COMPLY WITH PARAGRAPH (C) OF SECTION 8-1.9 OF THE ESTATES, POWERS AND TRUSTS LAW, or by reason of other misconduct in the execution of his office or dishonesty, drunkenness, improvidence or want of understanding, he is unfit for the execution of his office.

S 29. Subparagraph 6 of paragraph (a) of section 102 of the not-for-profit corporation law is amended, and eleven new subparagraphs 3-a, 3-b, 6-a, 9-a, 19, 20, 21, 22, 23, 24 and 25 are added to read as follows:

(3-A) "CHARITABLE CORPORATION" MEANS ANY CORPORATION FORMED, OR FOR THE PURPOSES OF THIS CHAPTER, DEEMED TO BE FORMED, FOR CHARITABLE PURPOSES.

(3-B) "CHARITABLE PURPOSES" OF A CORPORATION MEANS PURPOSES CONTAINED IN THE CERTIFICATE OF INCORPORATION OF THE CORPORATION THAT ARE CHARITA-

BLE, EDUCATIONAL, RELIGIOUS, SCIENTIFIC, LITERARY, CULTURAL OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS.

(6) "Director" means any member of the governing board of a corporation, whether designated as director, trustee, manager, governor, or by any other title. The term "board" means "board of directors" OR ANY OTHER BODY CONSTITUTING A "GOVERNING BOARD" AS DEFINED IN THIS SECTION.

(6-A) "ENTIRE BOARD" MEANS THE TOTAL NUMBER OF DIRECTORS ENTITLED TO VOTE WHICH THE CORPORATION WOULD HAVE IF THERE WERE NO VACANCIES. IF THE BY-LAWS OF THE CORPORATION PROVIDE THAT THE BOARD SHALL CONSIST OF A FIXED NUMBER OF DIRECTORS, THEN THE "ENTIRE BOARD" SHALL CONSIST OF THAT NUMBER OF DIRECTORS. IF THE BY-LAWS OF ANY CORPORATION PROVIDE THAT THE BOARD MAY CONSIST OF A RANGE BETWEEN A MINIMUM AND MAXIMUM NUMBER OF DIRECTORS, THEN THE "ENTIRE BOARD" SHALL CONSIST OF THE NUMBER OF DIRECTORS WITHIN SUCH RANGE THAT WERE ELECTED AS OF THE MOST RECENTLY HELD ELECTION OF DIRECTORS.

(9-A) "NON-CHARITABLE CORPORATION" MEANS ANY CORPORATION FORMED UNDER THIS CHAPTER, OTHER THAN A CHARITABLE CORPORATION, INCLUDING BUT NOT LIMITED TO ONE FORMED FOR ANY ONE OR MORE OF THE FOLLOWING NON-PECUNIARY PURPOSES: CIVIC, PATRIOTIC, POLITICAL, SOCIAL, FRATERNAL, ATHLETIC, AGRICULTURAL, HORTICULTURAL, OR ANIMAL HUSBANDRY, OR FOR THE PURPOSE OF OPERATING A PROFESSIONAL, COMMERCIAL, INDUSTRIAL, TRADE OR SERVICE ASSOCIATION.

(19) AN "AFFILIATE" OF A CORPORATION MEANS ANY ENTITY CONTROLLED BY, IN CONTROL OF, OR UNDER COMMON CONTROL WITH SUCH CORPORATION.

(20) "INDEPENDENT AUDITOR" MEANS ANY CERTIFIED PUBLIC ACCOUNTANT PERFORMING THE AUDIT OF THE FINANCIAL STATEMENTS OF A CORPORATION REQUIRED BY SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW.

(21) "INDEPENDENT DIRECTOR" MEANS A DIRECTOR WHO: (I) IS NOT, AND HAS NOT BEEN WITHIN THE LAST THREE YEARS, AN EMPLOYEE OF THE CORPORATION OR AN AFFILIATE OF THE CORPORATION, AND DOES NOT HAVE A RELATIVE WHO IS, OR HAS BEEN WITHIN THE LAST THREE YEARS, A KEY EMPLOYEE OF THE CORPORATION OR AN AFFILIATE OF THE CORPORATION; (II) HAS NOT RECEIVED, AND DOES NOT HAVE A RELATIVE WHO HAS RECEIVED, IN ANY OF THE LAST THREE FISCAL YEARS, MORE THAN TEN THOUSAND DOLLARS IN DIRECT COMPENSATION FROM THE CORPORATION OR AN AFFILIATE OF THE CORPORATION (OTHER THAN REIMBURSEMENT FOR EXPENSES REASONABLY INCURRED AS A DIRECTOR OR REASONABLE COMPENSATION FOR SERVICE AS A DIRECTOR AS PERMITTED BY PARAGRAPH (A) OF SECTION 202 (GENERAL AND SPECIAL POWERS)); AND (III) IS NOT A CURRENT EMPLOYEE OF OR DOES NOT HAVE A SUBSTANTIAL FINANCIAL INTEREST IN, AND DOES NOT HAVE A RELATIVE WHO IS A CURRENT OFFICER OF OR HAS A SUBSTANTIAL FINANCIAL INTEREST IN, ANY ENTITY THAT HAS MADE PAYMENTS TO, OR RECEIVED PAYMENTS FROM, THE CORPORATION OR AN AFFILIATE OF THE CORPORATION FOR PROPERTY OR SERVICES IN AN AMOUNT WHICH, IN ANY OF THE LAST THREE FISCAL YEARS, EXCEEDS THE LESSER OF TWENTY-FIVE THOUSAND DOLLARS OR TWO PERCENT OF SUCH ENTITY'S CONSOLIDATED GROSS REVENUES. FOR PURPOSES OF THIS SUBPARAGRAPH, "PAYMENT" DOES NOT INCLUDE CHARITABLE CONTRIBUTIONS.

(22) "RELATIVE" OF AN INDIVIDUAL MEANS HIS OR HER (I) SPOUSE, ANCESTORS, BROTHERS AND SISTERS (WHETHER WHOLE OR HALF BLOOD), CHILDREN (WHETHER NATURAL OR ADOPTED), GRANDCHILDREN, GREAT-GRANDCHILDREN, AND SPOUSES OF BROTHERS, SISTERS, CHILDREN, GRANDCHILDREN, AND GREAT-GRANDCHILDREN; OR (II) DOMESTIC PARTNER AS DEFINED IN SECTION TWENTY-NINE HUNDRED NINETY-FOUR-A OF THE PUBLIC HEALTH LAW.

(23) "RELATED PARTY" MEANS (I) ANY DIRECTOR, OFFICER OR KEY EMPLOYEE OF THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION; (II) ANY RELATIVE OF ANY DIRECTOR, OFFICER OR KEY EMPLOYEE OF THE CORPORATION OR ANY

AFFILIATE OF THE CORPORATION; OR (III) ANY ENTITY IN WHICH ANY INDIVIDUAL DESCRIBED IN CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH HAS A THIRTY-FIVE PERCENT OR GREATER OWNERSHIP OR BENEFICIAL INTEREST OR, IN THE CASE OF A PARTNERSHIP OR PROFESSIONAL CORPORATION, A DIRECT OR INDIRECT OWNERSHIP INTEREST IN EXCESS OF FIVE PERCENT.

(24) "RELATED PARTY TRANSACTION" MEANS ANY TRANSACTION, AGREEMENT OR ANY OTHER ARRANGEMENT IN WHICH A RELATED PARTY HAS A FINANCIAL INTEREST AND IN WHICH THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION IS A PARTICIPANT.

(25) "KEY EMPLOYEE" MEANS ANY PERSON WHO IS IN A POSITION TO EXERCISE SUBSTANTIAL INFLUENCE OVER THE AFFAIRS OF THE CORPORATION, AS REFERENCED IN 26 U.S.C. S 4958(F)(1)(A) AND FURTHER SPECIFIED IN 26 CFR S 53.4958-3(C), (D) AND (E), OR SUCCEEDING PROVISIONS.

S 30. Paragraphs (a), (b) and (c) of section 103 of the not-for-profit corporation law, paragraph (a) as amended by chapter 807 of the laws of 1973, paragraph (b) as amended by chapter 847 of the laws of 1970, and paragraph (c) as amended by chapter 961 of the laws of 1972, are amended to read as follows:

(a) Except as otherwise provided in this section, this chapter applies to every domestic corporation as herein defined, and to every foreign corporation as herein defined which is authorized to conduct or which conducts any activities in this state. This chapter also applies to any other domestic corporation or foreign corporation of any [type or] kind to the extent, if any, provided under this chapter or any law governing such corporation and, if no such provision for application is made, to the extent, if any, that the membership corporations law applied to such corporation as of the effective date of this chapter. A corporation formed by a special act of this state which has as its principal purpose an education purpose and which is a member of the university of the state of New York, is an "education corporation" under section two hundred sixteen-a of the education law.

To the extent that the membership corporations law or the general corporation law applied to it as of the effective date of this chapter, the corresponding provisions of this chapter apply to a corporation heretofore formed by or pursuant to a special act of this state other than a religious corporation or an "education corporation" under clause (b) of subdivision one of section two hundred sixteen-a of the education law, if (1) its principal purpose is a religious, charitable or education purpose, and (2) it is operated, supervised or controlled by or in connection with a religious organization. [Any such corporation may elect hereunder at any time after the effective date of this chapter to file a certificate of type under section one hundred thirteen (Certificate of type of not-for-profit corporation). Upon the filing of such certificate by the department of state, this chapter shall apply in all respects to such corporation.]

This chapter also applies to any other corporation of any [type or] kind, formed [not for profit] NOT-FOR-PROFIT under any other chapter of the laws of this state except a chapter of the consolidated laws, to the extent that provisions of this chapter do not conflict with the provisions of such unconsolidated law. If an applicable provision of such unconsolidated law relates to a matter embraced in this chapter but is not in conflict therewith, both provisions shall apply. Any corporation to which this chapter is made applicable by this paragraph shall be treated as a "corporation" or "domestic corporation" as such terms are used in this chapter, except that the purposes of any such corporation formed or formable under such unconsolidated law shall not there-

by be extended. For the purpose of this paragraph, the effective date of this chapter as to corporations to which this chapter is made applicable by this paragraph shall be September one, nineteen hundred seventy-three.

(b) The general corporation law does not apply to a corporation of any [type or] kind to which this chapter applies. A reference in any statute of this state which makes a provision of the general corporation law applicable to a corporation of any [type or] kind to which this chapter is applicable or a reference in any statute of this state, other than the membership corporations law, which makes a provision of the membership corporations law applicable to a corporation of any [type or] kind shall be deemed and construed to refer to and make applicable the corresponding provision, if any, of this chapter.

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

S 31. Paragraph (a) of section 104-A of the not-for-profit corporation law is REPEALED.

S 32. Section 105 of the not-for-profit corporation law, as amended by chapter 172 of the laws of 1999, is amended to read as follows:

S 105. Certificates; corrections.

(A) ANY CERTIFICATE OR OTHER INSTRUMENT RELATING TO A DOMESTIC OR FOREIGN CORPORATION SUBMITTED TO THE DEPARTMENT OF STATE UNDER THIS CHAPTER MAY BE CORRECTED WITH RESPECT TO ANY TYPOGRAPHICAL, OR SIMILAR NON-MATERIAL ERROR APPARENT ON THE FACE OF THE CERTIFICATE OR INSTRUMENT, PRIOR TO THE FILING OF SUCH CERTIFICATE OR INSTRUMENT BY THE DEPARTMENT OF STATE. SUCH CORRECTION SHALL BE EFFECTED BY THE DEPARTMENT OF STATE UPON AUTHORIZATION IN WRITING OR BY ELECTRONIC MAIL BY THE INCORPORATOR, OR FOLLOWING INCORPORATION, BY ANY PERSON AUTHORIZED BY THE CORPORATION.

(B) Any certificate or other instrument relating to a domestic or foreign corporation filed by the department of state under this chapter may be corrected with respect to any [informality or] TYPOGRAPHICAL OR SIMILAR NON-MATERIAL error apparent on the face or defect in the execution thereof including the deletion of any matter not permitted to be stated therein. A certificate, entitled "Certificate of correction of..... (correct title of certificate and name of corporation)" shall be signed and delivered to the department of state. It shall set forth the name of the corporation, the date the certificate to be corrected was filed by the department of state, the provision in the certificate as corrected or eliminated and if the execution was defective, the proper execution. The filing of the certificate by the department of state shall not alter the effective time of the instrument being corrected, which shall remain as its original effective time, and shall not affect any right or liability accrued or incurred before such

filing. A corporate name may not be changed or corrected under this section OTHER THAN TO CORRECT ANY TYPOGRAPHICAL OR SIMILAR NON-MATERIAL ERROR.

S 33. Subparagraphs 7, 8 and 9 of paragraph (a) of section 112 of the not-for-profit corporation law, subparagraphs 7 and 9 as amended by chapter 1058 of the laws of 1971, are amended and a new subparagraph 10 is added to read as follows:

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

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

(9) Upon application, ex parte, for an order to the supreme court at a special term held within the judicial district where the office of the corporation is located, and if the court so orders, to enforce any right given under this chapter to members, a director or an officer of a [Type A corporation] NON-CHARITABLE CORPORATION. For such purpose, the attorney-general shall have the same status as such members, director or officer.

(10) TO ENJOIN, VOID OR RESCIND ANY RELATED PARTY TRANSACTION, OR SEEK ADDITIONAL DAMAGES OR REMEDIES PURSUANT TO SECTION 715 (RELATED PARTY TRANSACTIONS) OF THIS CHAPTER.

S 34. Subparagraph 1 of paragraph (c) of section 112 of the not-for-profit corporation law is amended to read as follows:

(1) As used in this paragraph the term "resident" shall include individuals, domestic corporations of any [type or] kind and foreign corporations of any [type or] kind authorized to do business or carry on activities in the state.

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

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

S 114. Visitation of supreme court.

[Type B and Type C] CHARITABLE corporations, whether formed under general or special laws, with their books and vouchers, shall be subject to the visitation and inspection of a justice of the supreme court, or of any person appointed by the court for that purpose. If it appears by the verified petition of a member, DIRECTOR, OFFICER or creditor of any such corporation, that it, or its directors, officers, MEMBERS, KEY EMPLOYEES or agents, have misappropriated any of the funds or property of the corporation, or diverted them from the purpose of its incorporation, or that the corporation has acquired property in excess of the amount which it is authorized by law to hold, or has engaged in any business other than that stated in its certificate of incorporation, the court may order that notice of at least eight days, with a copy of the petition, be served on the corporation, THE ATTORNEY GENERAL and the persons charged with misconduct, requiring them to show cause at a time and place specified, why they should not be required to make and file an inventory and account of the property, effects and liabilities of such corporation with a detailed statement of its transactions during the twelve months next preceding the granting of such order. On the hearing of such application, the court may make an order requiring such inventory, account and statement to be filed, and proceed to take and state an

account of the property and liabilities of the corporation, or may appoint a referee for that purpose. When such account is taken and stated, after hearing all the parties to the application, the court may enter a final order determining the amount of property so held by the corporation, its annual income, whether any of the property or funds of the corporation have been misappropriated or diverted to any other purpose than that for which such corporation was incorporated, and whether such corporation has been engaged in any activity not covered by its certificate of incorporation. An appeal may be taken from the order by any party aggrieved to the appellate division of the supreme court, and to the court of appeals, as in a civil action. No corporation shall be required to make and file more than one inventory and account in any one year, nor to make a second account and inventory, while proceedings are pending for the statement of an account under this section.

S 37. Section 115 of the not-for-profit corporation law, as added by chapter 669 of the laws of 1977, is amended to read as follows:

S 115. Power to solicit contributions for charitable purposes.

[No corporation having the power to solicit contributions for charitable purposes may solicit contributions for any purpose for which approval of such solicitation is required under the provisions of section four hundred four of this chapter unless the certificate specifically makes provision for such solicitation and the required written approval is endorsed on or annexed to such certificate or unless the corporation is among those referred to in section one hundred seventy-two-a of the executive law. If such approval is not obtained and the corporation continues to solicit or to receive contributions for such purpose or advertises that it has obtained such approval, the] (A) NO CORPORATION REQUIRED TO OBTAIN APPROVAL OR PROVIDE NOTICE OF FORMATION PURSUANT TO SECTION 404 (APPROVALS, NOTICES AND CONSENTS) OF THIS CHAPTER MAY SOLICIT CONTRIBUTIONS FOR ANY PURPOSE REQUIRING SUCH APPROVAL OR NOTICE UNLESS AND UNTIL SUCH CORPORATION (1) OBTAINS AND SUBMITS ANY APPROVAL OR NOTICE REQUIRED THEREUNDER, AND (2) IS IN COMPLIANCE WITH THE REGISTRATION AND REPORTING REQUIREMENTS OF ARTICLE SEVEN-A OF THE EXECUTIVE LAW AND SECTION 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW.

(B) THE attorney general[, at the request of the officer or body authorized to grant such approval, shall] MAY maintain an action or proceeding pursuant to the provisions of subparagraph one of paragraph (a) of section one hundred twelve of this [chapter] ARTICLE AGAINST ANY CORPORATION THAT SOLICITS CONTRIBUTIONS IN VIOLATION OF PARAGRAPH (A) OF THIS SECTION. Such an action may also be maintained in relation to a corporation hereinafter incorporated if the name, purposes, objects or the activities of such corporation may, in any manner, lead to the belief that the corporation possesses or may exercise any of such purposes.

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

S 201. Purposes.

(a) A corporation, as defined in [subparagraph (5),] paragraph (a) of S 102 (Definitions), may be formed under this chapter [as provided in paragraph (b)] AS A CHARITABLE CORPORATION OR A NON-CHARITABLE CORPORATION unless it may be formed under any other corporate law of this state, in which event it may not be formed under this chapter unless such other corporate law expressly so provides.

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

Type A -] A CORPORATION FORMED UNDER THIS CHAPTER ON OR AFTER JULY FIRST, TWO THOUSAND FOURTEEN SHALL EITHER BE A CHARITABLE CORPORATION OR A NON-CHARITABLE CORPORATION. ANY CORPORATION FORMED FOR BOTH CHARITABLE PURPOSES AND NON-CHARITABLE PURPOSES SHALL BE DEEMED A CHARITABLE CORPORATION FOR PURPOSES OF THIS CHAPTER. A TYPE A not-for-profit corporation [of this type may be formed for any lawful non-business purpose or purposes including, but not limited to, any one or more of the following non-pecuniary purposes: civic, patriotic, political, social, fraternal, athletic, agricultural, horticultural, animal husbandry, and for a professional, commercial, industrial, trade or service association.

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

Type C - A not-for-profit corporation of this type may be formed for any lawful business purpose to achieve a lawful public or quasi-public objective.

Type D - A not-for-profit corporation of this type may be formed under this chapter when such formation is authorized by any other corporate law of this state for any business or non-business, or pecuniary or non-pecuniary, purpose or purposes specified by such other law, whether such purpose or purposes are also within types A, B, C above or otherwise.

(c) If a corporation is formed for purposes which are within both type A and type B above, it is a type B corporation. If a corporation has among its purposes any purpose which is within type C, such corporation is a type C corporation. A type D corporation is subject to all provisions of this chapter which are applicable to a type B corporation under this chapter unless provided to the contrary in, and subject to the contrary provisions of, the other corporate law authorizing formation under this chapter of the type D corporation.] FORMED PRIOR TO JULY FIRST, TWO THOUSAND FOURTEEN SHALL BE DEEMED A NON-CHARITABLE CORPORATION UNDER THIS CHAPTER. ANY SUBMISSION OR FILING BY SUCH CORPORATION TO ANY PERSON OR ENTITY SHALL BE DEEMED TO HAVE BEEN SUBMITTED OR FILED BY A NON-CHARITABLE CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE A CORPORATION SHALL BE DEEMED TO REFER TO A NON-CHARITABLE CORPORATION.

(C) A TYPE B OR C NOT-FOR-PROFIT CORPORATION FORMED PRIOR TO JULY FIRST, TWO THOUSAND FOURTEEN SHALL BE DEEMED A CHARITABLE CORPORATION FOR ALL PURPOSES UNDER THIS CHAPTER. ANY SUBMISSION OR FILING BY SUCH CORPORATION TO ANY PERSON OR ENTITY SHALL BE DEEMED TO HAVE BEEN SUBMITTED OR FILED BY A CHARITABLE CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE B OR TYPE C CORPORATION SHALL BE DEEMED TO REFER TO A CHARITABLE CORPORATION.

(D) A TYPE D NOT-FOR-PROFIT CORPORATION FORMED PRIOR TO JULY FIRST, TWO THOUSAND FOURTEEN FOR CHARITABLE PURPOSES AS THAT TERM IS DEFINED IN THIS CHAPTER SHALL BE DEEMED A CHARITABLE CORPORATION. ANY SUBMISSION OR FILING BY SUCH CORPORATION TO ANY PERSON OR ENTITY SHALL BE DEEMED TO HAVE BEEN SUBMITTED OR FILED BY A CHARITABLE CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE D CORPORATION SHALL BE DEEMED TO REFER TO A CHARITABLE CORPORATION. ANY OTHER TYPE D NOT-FOR-PROFIT CORPORATIONS FORMED

PRIOR TO JULY FIRST, TWO THOUSAND FOURTEEN SHALL BE DEEMED A NON-CHARITABLE CORPORATION. ANY SUBMISSION OR FILING BY SUCH CORPORATION TO ANY PERSON OR ENTITY SHALL BE DEEMED TO HAVE BEEN SUBMITTED OR FILED BY A NON-CHARITABLE CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE D CORPORATION SHALL BE DEEMED TO REFER TO A NON-CHARITABLE CORPORATION.

S 39. Section 204 of the not-for-profit corporation law is amended to read as follows:

S 204. Limitation on activities.

Notwithstanding any other provision of this chapter or any other general law, a corporation of any [type or] kind to which this chapter applies shall conduct no activities for pecuniary profit or financial gain, whether or not in furtherance of its corporate purposes, except to the extent that such activity supports its other lawful activities then being conducted.

S 40. Subparagraphs 2 and 3 of paragraph (a) of section 301 of the not-for-profit corporation law, subparagraph 2 as amended by chapter 344 of the laws of 2004, are amended to read as follows:

(2) (A) Shall be such as to distinguish it from the names of corporations of any [type or] kind, or a fictitious name of an authorized foreign corporation filed pursuant to article thirteen of this chapter, as such names appear on the index of names of existing domestic and authorized foreign corporations of any [type or] kind, including fictitious names of authorized foreign corporations filed pursuant to article thirteen of this chapter, in the department of state, division of corporations, or a name the right to which is reserved.

(B) Shall be such as to distinguish it from (i) the names of domestic limited liability companies, (ii) the names of authorized foreign limited liability companies, (iii) the fictitious names of authorized foreign limited liability companies, (iv) the names of domestic limited partnerships, (v) the names of authorized foreign limited partnerships, or (vi) the fictitious names of authorized foreign limited partnerships, in each case, as such names appear on the index of names of existing domestic and authorized foreign limited liability companies, including fictitious names of authorized foreign limited liability companies, in the department of state, or on the index of names of existing domestic or authorized foreign limited partnerships, including fictitious names of authorized foreign limited partnerships, in the department of state, or names the rights to which are reserved; provided, however, that no corporation that was formed prior to the effective date of this clause and no foreign corporation that was qualified to conduct activities in this state prior to such effective date shall be required to change the name or fictitious name it had on such effective date solely by reason of such name or fictitious name being indistinguishable from the name or fictitious name of any domestic or authorized foreign limited liability company or limited partnership or from any name the right to which is reserved by or on behalf of any domestic or foreign limited liability company or limited partnership.

(3) Shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by section 404 (Approvals, NOTICES and consents) or any other statute of this state, unless in the latter case the restrictions have been complied with.

S 41. Subparagraph 3 of paragraph (b) of section 302 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(3) Shall not prevent a foreign corporation from being authorized under a name which is similar to the name of a corporation of any [type or] kind existing or authorized under any statute, if the department of state finds, upon proof by affidavit or otherwise as it may determine, that a difference between such names exists in the terms or abbreviations indicating corporate character or otherwise, that the applicant has conducted activities as a corporation under its said name for not less than ten consecutive years immediately prior to the date of its application, that the activities to be conducted in this state are not the same or similar to the business or activities conducted by the corporation with whose name it may conflict and that the public is not likely to be confused or deceived, and if the applicant shall agree in its application for authority to use with its corporate name, in this state, to be placed immediately under or following such name, the words "a ..... (name of jurisdiction of incorporation) corporation".

S 42. Paragraph (c) of section 303 of the not-for-profit corporation law, as amended by chapter 590 of the laws of 1982, is amended to read as follows:

(c) Application to reserve a corporate name shall be delivered to the department of state. It shall set forth the name and address of the applicant, the name to be reserved and a statement of the basis under paragraph (a) or (b) for the application. The secretary of state may require the applicant to set forth in his application the nature of the activities to be conducted by the corporation. If the name is available for corporate use, the department of state shall reserve the name for the use of the applicant for a period of sixty days and issue a certificate of reservation. The prohibitions, restrictions and qualifications set forth in section 301 (Corporate name; general), section 302 (Corporate name; exceptions) and section 404 (Approvals, NOTICES and consents) are not waived by the issuance of a certificate of reservation. The certificate of reservation shall include the name of the applicant, the name reserved and the date of the reservation. The certificate of reservation (or in lieu thereof an affidavit by the applicant or by his agent or attorney that the certificate of reservation has been lost or destroyed) shall accompany the certificate of incorporation or the application for authority when either is delivered to the department of state.

S 43. Section 304 of the not-for-profit corporation law, as amended by chapter 168 of the laws of 1982, is amended to read as follows:

S 304. Statutory designation of secretary of state as agent of domestic corporations [formed under article four of this chapter] and authorized foreign corporations for service of process.

(a) The secretary of state shall be the agent of every domestic corporation [formed under article four of this chapter] and every authorized foreign corporation upon whom process against the corporation may be served.

(b) Any designation by a domestic corporation [formed under article four of this chapter] or foreign corporation of the secretary of state as such agent, which designation is in effect on the effective date of this chapter, shall continue. Every domestic corporation [formed under article four of this chapter] or foreign corporation, existing or authorized on the effective date of this chapter, which has not designated the secretary of state as such agent, shall be deemed to have done so.

(c) Any designation by a domestic corporation [formed under article four of this chapter] or foreign corporation of an agent other than the

secretary of state which is in effect on the effective date of this chapter shall continue in effect until changed or revoked as provided in this chapter.

(d) Any designated post-office address to which the secretary of state shall mail a copy of process served upon him OR HER as agent of a domestic corporation [formed under article four of this chapter] or foreign corporation, shall continue until the filing of a certificate under this chapter directing the mailing to a different post-office address.

S 44. Paragraph (a) of section 305 of the not-for-profit corporation law, as amended by chapter 131 of the laws of 1985, is amended to read as follows:

(a) Every domestic corporation or authorized foreign corporation may designate a registered agent in this state upon whom process against such corporation may be served. The agent shall be a natural person who is a resident of or has a business address in this state or a domestic corporation or foreign corporation of any [type or] kind formed, or authorized to do business in this state, under this chapter or under any other statute of this state.

S 45. Paragraphs (b) and (c) of section 306 of the not-for-profit corporation law, paragraph (b) as amended by chapter 168 of the laws of 1982, and paragraph (c) as amended by chapter 93 of the laws of 1984, are amended to read as follows:

(b) Service of process on the secretary of state as agent of a domestic corporation [formed under article four of this chapter] or an authorized foreign corporation shall be made by personally delivering to and leaving with [him or his] THE deputy OF THE SECRETARY OF STATE, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic corporation [formed under article four of this chapter] or an authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy to such corporation at the address of its office within this state on file in the department.

(c) If an action or special proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the office of the domestic corporation [formed under article four of this chapter] or foreign corporation is within the territorial jurisdiction of the court.

S 46. The not-for-profit corporation law is amended by adding a new section 309 to read as follows:

S 309. PERSONAL JURISDICTION AND SERVICE OF PROCESS ON NON-DOMICILIARY RESIDENT DIRECTOR, OFFICER, KEY EMPLOYEE OR AGENT.

A PERSON, BY BECOMING A DIRECTOR, OFFICER, KEY EMPLOYEE OR AGENT OF A CORPORATION IS SUBJECT TO THE PERSONAL JURISDICTION OF THE SUPREME COURT OF THE STATE OF NEW YORK, AND IN AN ACTION OR PROCEEDING BY THE ATTORNEY GENERAL UNDER THIS CHAPTER PROCESS MAY BE SERVED UPON SUCH PERSON AS PROVIDED IN SECTION THREE HUNDRED THIRTEEN OF THE CIVIL PRACTICE LAW AND RULES.

S 47. Subparagraphs 2 and 4 of paragraph (a) of section 402 of the not-for-profit corporation law, subparagraph 2 as amended by chapter 847

of the laws of 1970 and subparagraph 4 as amended by chapter 679 of the laws of 1985, are amended to read as follows:

(2) That the corporation is a corporation as defined in subparagraph (a) (5) of section 102 (Definitions)[;], the purpose or purposes for which it is formed, and [the type of] WHETHER IT IS A CHARITABLE corporation [it shall be] OR A NON-CHARITABLE CORPORATION under section 201 (Purposes)[; and in the case of a Type C corporation, the lawful public or quasi-public objective which each business purpose will achieve]. ANY CORPORATION MAY ALSO SET FORTH ANY ACTIVITIES THAT IT INTENDS TO CARRY OUT IN FURTHERANCE OF SUCH PURPOSE OR PURPOSES; PROVIDED THAT THIS SUBPARAGRAPH SHALL NOT BE INTERPRETED TO REQUIRE THAT THE CERTIFICATE OF INCORPORATION SET FORTH SUCH ACTIVITIES OR OTHERWISE STATE HOW THE CORPORATION'S PURPOSES WILL BE ACHIEVED.

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

S 48. The section heading and paragraph (d) of section 404 of the not-for-profit corporation law, the section heading and paragraph (d) as amended by chapter 139 of the laws of 1993, and paragraph (d) as relettered by chapter 431 of the laws of 1993, are amended to read as follows:

Approvals, NOTICES and consents.

(d) Every CORPORATION WHOSE certificate of incorporation INCLUDES AMONG ITS PURPOSES THE OPERATION OF A SCHOOL; A COLLEGE, UNIVERSITY OR OTHER ENTITY PROVIDING POST SECONDARY EDUCATION; A LIBRARY; OR A MUSEUM OR HISTORICAL SOCIETY SHALL HAVE ENDORSED THEREON OR ANNEXED THERETO THE APPROVAL OF THE COMMISSIONER OF EDUCATION. ANY OTHER CORPORATION THE CERTIFICATE OF INCORPORATION OF which includes a purpose for which a corporation might be chartered by the regents of the university of the State of New York shall [have endorsed thereon or annexed thereto the consent of the commissioner of education.] PROVIDE A CERTIFIED COPY OF THE CERTIFICATE OF INCORPORATION TO THE COMMISSIONER OF EDUCATION WITHIN THIRTY BUSINESS DAYS AFTER THE CORPORATION RECEIVES CONFIRMATION FROM THE DEPARTMENT OF STATE THAT THE CERTIFICATE HAS BEEN ACCEPTED FOR FILING.

S 49. Paragraph (w) of section 404 of the not-for-profit corporation law is REPEALED and a new paragraph (w) is added to read as follows:

(W) A STATEMENT IN THE CERTIFICATE OF INCORPORATION OF A CORPORATION THAT THE CORPORATION'S PURPOSES AND POWERS DO NOT INCLUDE ANY OF THOSE DESCRIBED IN PARAGRAPHS (A) THROUGH (V) OF THIS SECTION SHALL BE SUFFICIENT TO SATISFY THE APPROVAL AND NOTICE REQUIREMENTS CONTAINED IN THIS SECTION PROVIDED SUCH STATEMENT IS ACCURATE AS OF THE DATE THE CERTIFICATE OF INCORPORATION IS FILED.

S 50. Paragraph (d) of section 502 of the not-for-profit corporation law is amended to read as follows:

(d) A member's capital contribution shall be evidenced by a capital certificate which shall be non-transferable, except that the certificate of incorporation of a [Type A] NON-CHARITABLE corporation may provide that its capital certificates, or some of them, may be transferable to other members with the consent of the corporation upon specified terms and conditions.

S 51. Paragraphs (b) and (c) of section 503 of the not-for-profit corporation law, subparagraph 1 of paragraph (b) and paragraph (c) as amended by chapter 847 of the laws of 1970, are amended to read as follows:

(b) Each capital certificate shall when issued state upon the face thereof:

(1) [That the corporation is a Type ..... corporation under section 113 or section 402 of the New York Not-for-Profit Corporation Law.

(2)] The name of the member to whom issued.

[(3)] (2) The amount of the member's capital contribution evidenced by such certificate.

[(4)] (3) If appropriate, that the corporation is a [Type A] NON-CHARITABLE corporation, and that its certificate of incorporation provides that the capital certificate is transferable to other members with the consent of the corporation.

[(c)] (4) The fact that the corporation is a not-for-profit corporation, and that the capital certificate is non-transferable or is transferable to other members, with the consent of the corporation, shall be noted conspicuously on the face or back of each such certificate.

S 52. Paragraph (b) of section 505 of the not-for-profit corporation law, subparagraph 1 as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(b) Each subvention certificate shall when issued state upon the face thereof:

(1) [That the corporation is a Type ..... corporation under section 113 or section 402 of the New York Not-for-Profit Corporation Law.

(2)] The name of the person or persons to whom issued.

[(3)] (2) The amount of the subvention evidenced by such certificate.

[(4)] (3) The amount of the periodic payment thereon, if any, authorized by the resolution of the board.

[(5)] (4) If appropriate, that the certificate is redeemable and a summary of the conditions for redemption at the option of the corporation or of the holder.

[(6)] (5) If appropriate, that the certificate is transferable, either at will or subject to specified restrictions.

S 53. Section 509 of the not-for-profit corporation law, as amended by chapter 145 of the laws of 1991, is amended to read as follows:

S 509. Purchase, sale, mortgage and lease of real property.

(A) No CORPORATION SHALL purchase [of] real property [shall be made by a corporation and no corporation shall sell, mortgage or lease real property, unless authorized by the vote of] UNLESS SUCH PURCHASE IS AUTHORIZED BY THE VOTE OF A MAJORITY OF DIRECTORS OF THE BOARD OR OF A MAJORITY OF A COMMITTEE AUTHORIZED BY THE BOARD, PROVIDED THAT IF SUCH PROPERTY WOULD, UPON PURCHASE THEREOF, CONSTITUTE ALL, OR SUBSTANTIALLY ALL, OF THE ASSETS OF THE CORPORATION, THEN THE VOTE OF two-thirds of the entire board[, provided that if] SHALL BE REQUIRED, OR, IF there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient.

(B) NO CORPORATION SHALL SELL, MORTGAGE, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF ITS REAL PROPERTY UNLESS AUTHORIZED BY THE VOTE OF A MAJORITY OF DIRECTORS OF THE BOARD OR OF A MAJORITY OF A COMMITTEE AUTHORIZED BY THE BOARD; PROVIDED THAT IF SUCH PROPERTY CONSTITUTES ALL, OR SUBSTANTIALLY ALL, OF THE ASSETS OF THE CORPORATION, THEN THE VOTE OF TWO-THIRDS OF THE BOARD SHALL BE REQUIRED, OR, IF THERE ARE TWENTY-ONE OR MORE DIRECTORS, THE VOTE OF A MAJORITY OF THE ENTIRE BOARD SHALL BE SUFFICIENT.

(C) IF A CORPORATION AUTHORIZES A COMMITTEE TO ACT PURSUANT TO PARAGRAPHS (A) AND (B) OF THIS SECTION, THE COMMITTEE SHALL PROMPTLY REPORT

ANY ACTIONS TAKEN TO THE BOARD, AND IN NO EVENT AFTER THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD.

S 54. Paragraph (a) of section 510 of the not-for-profit corporation law, the opening paragraph as amended by chapter 961 of the laws of 1972, subparagraph 3 as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(a) A sale, lease, exchange or other disposition of all, or substantially all, the assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of cash or other property, real or personal, including shares, bonds or other securities of any other domestic or foreign corporation or corporations of any [type or] kind, as may be authorized in accordance with the following procedure:

(1) If there are members entitled to vote thereon, the board shall adopt a resolution recommending such sale, lease, exchange or other disposition. The resolution shall specify the terms and conditions of the proposed transaction, including the consideration to be received by the corporation and the eventual disposition to be made of such consideration, together with a statement that the dissolution of the corporation is or is not contemplated thereafter. The resolution shall be submitted to a vote at a meeting of members entitled to vote thereon, which may be either an annual or a special meeting. Notice of the meeting shall be given to each member and each holder of subvention certificates or bonds of the corporation, whether or not entitled to vote. At such meeting by two-thirds vote as provided in paragraph (c) of section 613 (Vote of members) the members may approve the proposed transaction according to the terms of the resolution of the board, or may approve such sale, lease, exchange or other disposition and may authorize the board to modify the terms and conditions thereof.

(2) If there are no members entitled to vote thereon, such sale, lease, exchange or other disposition shall be authorized by the vote of at least two-thirds of the entire board, provided that if there are twenty-one or more directors, the vote of a majority of the entire board shall be sufficient.

(3) If the corporation is, or would be if formed under this chapter, classified as a [Type B or Type C] CHARITABLE corporation under section 201[,] (Purposes) such sale, lease, exchange or other disposition shall in addition require [leave] APPROVAL of the ATTORNEY GENERAL OR THE supreme court in the judicial district or of the county court of the county in which the corporation has its office or principal place of carrying out the [puropses] PURPOSES for which it was formed IN ACCORDANCE WITH SECTION 511 (PETITION FOR COURT APPROVAL) OR SECTION 511-A (PETITION FOR ATTORNEY GENERAL APPROVAL) OF THIS ARTICLE.

S 55. The section heading and paragraph (a) of section 511 of the not-for-profit corporation law, subparagraph 6 of paragraph (a) as amended by chapter 961 of the laws of 1972, are amended to read as follows:

Petition for [leave of] court APPROVAL.

(a) [A corporation required by law to] TO obtain [leave of] court APPROVAL to sell, lease, exchange or otherwise dispose of all or substantially all its assets, A CORPORATION shall present a verified petition to the supreme court of the judicial district, or the county court of the county, wherein the corporation has its office or principal place of carrying out the purposes for which it was formed. The petition shall set forth:

1. The name of the corporation, the law under or by which it was incorporated.
2. The names of its directors and principal officers, and their places of residence.
3. The activities of the corporation.
4. A description, with reasonable certainty, of the assets to be sold, leased, exchanged, or otherwise disposed of, or a statement that it is proposed to sell, lease, exchange or otherwise dispose of all or substantially all the corporate assets more fully described in a schedule attached to the petition; and a statement of the fair value of such assets, and the amount of the corporation's debts and liabilities and how secured.
5. The consideration to be received by the corporation and the disposition proposed to be made thereof, together with a statement that the dissolution of the corporation is or is not contemplated thereafter.
6. That the consideration and the terms of the sale, lease, exchange or other disposition of the assets of the corporation are fair and reasonable to the corporation, and that the purposes of the corporation, or the interests of its members will be promoted thereby, and a concise statement of the reasons therefor.
7. That such sale, lease, exchange or disposition of corporate assets, has been recommended or authorized by vote of the directors in accordance with law, at a meeting duly called and held, as shown in a schedule annexed to the petition setting forth a copy of the resolution granting such authority with a statement of the vote thereon.
8. Where the consent of members of the corporation is required by law, that such consent has been given, as shown in a schedule annexed to the petition setting forth a copy of such consent, if in writing, or of a resolution giving such consent, adopted at a meeting of members duly called and held, with a statement of the vote thereon.
9. A [prayer] REQUEST for [leave] COURT APPROVAL to sell, lease, exchange or otherwise dispose of all or substantially all the assets of the corporation as set forth in the petition.

S 56. The not-for-profit corporation law is amended by adding a new section 511-a to read as follows:

S 511-A. PETITION FOR ATTORNEY GENERAL APPROVAL.

(A) IN LIEU OF OBTAINING COURT APPROVAL UNDER SECTION 511 (PETITION FOR COURT APPROVAL) OF THIS ARTICLE TO SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF ALL OR SUBSTANTIALLY ALL OF ITS ASSETS, THE CORPORATION MAY ALTERNATIVELY SEEK APPROVAL OF THE ATTORNEY GENERAL BY VERIFIED PETITION, EXCEPT IN THE FOLLOWING CIRCUMSTANCES: (1) THE CORPORATION IS INSOLVENT, OR WOULD BECOME INSOLVENT AS A RESULT OF THE TRANSACTION, AND MUST PROCEED ON NOTICE TO CREDITORS PURSUANT TO PARAGRAPH (C) OF SECTION 511 OF THIS ARTICLE; OR (2) THE ATTORNEY GENERAL, IN HIS OR HER DISCRETION, CONCLUDES THAT A COURT SHOULD REVIEW THE PETITION AND MAKE A DETERMINATION THEREON.

(B) THE VERIFIED PETITION TO THE ATTORNEY GENERAL SHALL SET FORTH (1) ALL OF THE INFORMATION REQUIRED TO BE INCLUDED IN A VERIFIED PETITION TO OBTAIN COURT APPROVAL PURSUANT TO SUBPARAGRAPHS ONE THROUGH NINE OF PARAGRAPH (A) OF SECTION 511 OF THIS ARTICLE; (2) A STATEMENT THAT THE CORPORATION IS NOT INSOLVENT AND WILL NOT BECOME INSOLVENT AS A RESULT OF THE TRANSACTION; AND (3) A STATEMENT AS TO WHETHER ANY PERSONS HAVE RAISED, OR HAVE A REASONABLE BASIS TO RAISE, OBJECTIONS TO THE SALE, LEASE, EXCHANGE OR OTHER DISPOSITION THAT IS THE SUBJECT OF THE PETITION, INCLUDING A STATEMENT SETTING FORTH THE NAMES AND ADDRESSES OF SUCH PERSONS, THE NATURE OF THEIR INTEREST, AND A DESCRIPTION OF THEIR

OBJECTIONS. THE ATTORNEY GENERAL, IN HIS OR HER DISCRETION, MAY DIRECT THE CORPORATION TO PROVIDE NOTICE OF SUCH PETITION TO ANY INTERESTED PERSON, AND THE CORPORATION SHALL PROVIDE THE ATTORNEY GENERAL WITH A CERTIFICATION THAT SUCH NOTICE HAS BEEN PROVIDED.

(C) IF IT SHALL APPEAR, TO THE SATISFACTION OF THE ATTORNEY GENERAL THAT THE CONSIDERATION AND THE TERMS OF THE TRANSACTION ARE FAIR AND REASONABLE TO THE CORPORATION AND THAT THE PURPOSES OF THE CORPORATION OR THE INTERESTS OF THE MEMBERS WILL BE PROMOTED, THE ATTORNEY GENERAL MAY AUTHORIZE THE SALE, LEASE, EXCHANGE OR OTHER DISPOSITION OF ALL OR SUBSTANTIALLY ALL THE ASSETS OF THE CORPORATION, AS DESCRIBED IN THE PETITION, FOR SUCH CONSIDERATION AND UPON SUCH TERMS AS THE ATTORNEY GENERAL MAY PRESCRIBE. THE AUTHORIZATION OF THE ATTORNEY GENERAL SHALL DIRECT THE DISPOSITION OF THE CONSIDERATION TO BE RECEIVED THEREUNDER BY THE CORPORATION.

(D) AT ANY TIME, INCLUDING IF THE ATTORNEY GENERAL DOES NOT APPROVE THE PETITION, OR IF THE ATTORNEY GENERAL CONCLUDES THAT COURT REVIEW IS APPROPRIATE, THE PETITIONER MAY SEEK COURT APPROVAL ON NOTICE TO THE ATTORNEY GENERAL PURSUANT TO SECTION 511 (PETITION FOR COURT APPROVAL) OF THIS ARTICLE.

S 57. Paragraph (a) of section 513 of the not-for-profit corporation law, as amended by chapter 690 of the laws of 1978, is amended to read as follows:

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

S 58. Paragraph (b) of section 515 of the not-for-profit corporation law is amended to read as follows:

(b) A corporation may pay compensation in a reasonable amount to members, directors, or officers, for services rendered, and may make distributions of cash or property to members upon dissolution or final liquidation as permitted by this chapter. NO PERSON WHO MAY BENEFIT FROM SUCH COMPENSATION MAY BE PRESENT AT OR OTHERWISE PARTICIPATE IN ANY BOARD OR COMMITTEE DELIBERATION OR VOTE CONCERNING SUCH PERSON'S COMPENSATION; PROVIDED THAT NOTHING IN THIS SECTION SHALL PROHIBIT THE BOARD OR AUTHORIZED COMMITTEE FROM REQUESTING THAT A PERSON WHO MAY BENEFIT FROM SUCH COMPENSATION PRESENT INFORMATION AS BACKGROUND OR ANSWER QUESTIONS AT A COMMITTEE OR BOARD MEETING PRIOR TO THE COMMENCEMENT OF DELIBERATIONS OR VOTING RELATING THERETO.

S 59. Section 520 of the not-for-profit corporation law, as amended by chapter 58 of the laws of 1981, is amended to read as follows:

S 520. Reports of corporation.

Each domestic corporation, and each foreign corporation authorized to conduct activities in this state, shall from time to time file such reports on its activities as may be required by the laws of this state. All registration and reporting requirements pursuant to [EPTL] ARTICLE SEVEN-A OF THE EXECUTIVE LAW, AND SECTION 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW, or related successor provisions, are, without limitation on the foregoing, expressly included as reports required by the laws of this state to be filed within the meaning of this section. Willful fail-

ure of a corporation to file a report as required by law shall constitute a breach of the directors' duty to the corporation and shall subject the corporation, at the suit of the attorney-general, to an action or special proceeding for dissolution under article 11 (Judicial dissolution) in the case of a domestic corporation, or under [S] SECTION 1303 (Violations) in the case of a foreign corporation.

S 60. Paragraph (f) of section 555 of the not-for-profit corporation law, as added by chapter 490 of the laws of 2010, is amended to read as follows:

(f) This [section] CHAPTER shall not limit the application of the [doctrine] DOCTRINES of cy pres AND DEVIATION.

S 61. Paragraph (a) of section 601 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(a) A corporation shall have one or more classes of members, or, in the case of a [Type B] CHARITABLE corporation, may have no members, in which case any such provision for classes of members or for no members shall be set forth in the certificate of incorporation or the by-laws. Corporations, joint-stock associations, unincorporated associations and partnerships, as well as any other person without limitation, may be members.

S 62. Paragraph (a) of section 605 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(a) Whenever under the provisions of this chapter members are required or permitted to take any action at a meeting, written notice shall state the place, date and hour of the meeting and, unless it is an annual meeting, indicate that it is being issued by or at the direction of the person or persons calling the meeting. Notice of a special meeting shall also state the purpose or purposes for which the meeting is called. A copy of the notice of any meeting shall be given, personally [or], by mail, OR BY FACSIMILE TELECOMMUNICATIONS OR BY ELECTRONIC MAIL, to each member entitled to vote at such meeting. If the notice is given personally [or], by first class mail OR BY FACSIMILE TELECOMMUNICATIONS OR BY ELECTRONIC MAIL, it shall be given not less than ten nor more than fifty days before the date of the meeting; if mailed by any other class of mail, it shall be given not less than thirty nor more than sixty days before such date. If mailed, such notice is given when deposited in the United States mail, with postage thereon prepaid, directed to the member at his address as it appears on the record of members, or, if he shall have filed with the secretary of the corporation a written request that notices to him be mailed to some other address, then directed to him at such other address. IF SENT BY FACSIMILE TELECOMMUNICATION OR MAILED ELECTRONICALLY, SUCH NOTICE IS GIVEN WHEN DIRECTED TO THE MEMBER'S FAX NUMBER OR ELECTRONIC MAIL ADDRESS AS IT APPEARS ON THE RECORD OF MEMBERS, OR, TO SUCH FAX NUMBER OR OTHER ELECTRONIC MAIL ADDRESS AS FILED WITH THE SECRETARY OF THE CORPORATION. NOTWITHSTANDING THE FOREGOING, SUCH NOTICE SHALL NOT BE DEEMED TO HAVE BEEN GIVEN ELECTRONICALLY (1) IF THE CORPORATION IS UNABLE TO DELIVER TWO CONSECUTIVE NOTICES TO THE MEMBER BY FACSIMILE TELECOMMUNICATION OR ELECTRONIC MAIL; OR (2) THE CORPORATION OTHERWISE BECOMES AWARE THAT NOTICE CANNOT BE DELIVERED TO THE MEMBER BY FACSIMILE TELECOMMUNICATION OR ELECTRONIC MAIL. An affidavit of the secretary or other person giving the notice or of a transfer agent of the corporation that the notice required by this section has been given shall, in the absence of fraud, be prima facie evidence of the facts therein stated. Whenever a corporation has more than five

hundred members, the notice may be served by publication[, in lieu of mailing,] in a newspaper published in the county in the state in which the principal office of the corporation is located, once a week for three successive weeks next preceding the date of the meeting, PROVIDED THAT THE CORPORATION SHALL ALSO PROMINENTLY POST NOTICE OF SUCH MEETING ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE CORPORATION CONTINUOUSLY FROM THE DATE OF PUBLICATION THROUGH THE DATE OF THE MEETING. A CORPORATION SHALL SEND NOTICE OF MEETINGS BY FIRST CLASS MAIL TO ANY MEMBER WHO REQUESTS IN WRITING THAT SUCH NOTICES BE DELIVERED BY SUCH METHOD.

S 63. Section 606 of the not-for-profit corporation law is amended to read as follows:

S 606. Waivers of notice.

Notice of meeting need not be given to any member who submits a [signed] waiver of notice, in person or by proxy, whether before or after the meeting. WAIVER OF NOTICE MAY BE WRITTEN OR ELECTRONIC. IF WRITTEN, THE WAIVER MUST BE EXECUTED BY THE MEMBER OR THE MEMBER'S AUTHORIZED OFFICER, DIRECTOR, EMPLOYEE, OR AGENT BY SIGNING SUCH WAIVER OR CAUSING HIS SIGNATURE TO BE AFFIXED TO SUCH WAIVER BY ANY REASONABLE MEANS, INCLUDING, BUT NOT LIMITED TO FACSIMILE SIGNATURE. IF ELECTRONIC, THE TRANSMISSION OF THE WAIVER MUST BE SENT BY ELECTRONIC MAIL AND SET FORTH, OR BE SUBMITTED WITH, INFORMATION FROM WHICH IT CAN REASONABLY BE DETERMINED THAT THE TRANSMISSION WAS AUTHORIZED BY THE MEMBER. The attendance of any member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him.

S 64. Paragraphs (b) and (c) of section 609 of the not-for-profit corporation law, as added by chapter 186 of the laws of 1999, are amended to read as follows:

(b) Without limiting the manner in which a member may authorize another person or persons to act for him as proxy pursuant to paragraph (a) of this section, the following shall constitute a valid means by which a member may grant such authority:

(1) A member may execute a writing authorizing another person or persons to act for him as proxy. Execution may be accomplished by the member or the member's authorized officer, director, employee or agent signing such writing or causing his or her signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(2) A member may authorize another person or persons to act for the member as proxy by [transmitting or authorizing the transmission of a telegram, cablegram or other means of] PROVIDING SUCH AUTHORIZATION BY electronic [transmission] MAIL to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person [who will be the holder of the proxy to receive such transmission], provided that any such [telegram, cablegram or other means of] AUTHORIZATION BY electronic [transmission] MAIL shall either set forth [or be submitted with] information from which it can be reasonably determined that the [telegram, cablegram or other] AUTHORIZATION BY electronic [transmission] MAIL was authorized by the member. If it is determined that such [telegrams, cablegrams or other] AUTHORIZATION BY electronic [transmissions are] MAIL IS valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the nature of the information upon which they relied.

(c) Any copy, facsimile telecommunication or other reliable reproduction of the writing or [transmission] ELECTRONIC MAIL created pursuant to paragraph (b) of this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

S 65. Paragraphs (a) and (b) of section 614 of the not-for-profit corporation law are amended to read as follows:

(a) Whenever, under this chapter, members are required or permitted to take any action by vote, such action may be taken without a meeting [on written] UPON THE consent[, setting forth the action so taken, signed by] OF all of the members entitled to vote thereon, WHICH CONSENT SHALL SET FORTH THE ACTION SO TAKEN. SUCH CONSENT MAY BE WRITTEN OR ELECTRONIC. IF WRITTEN, THE CONSENT MUST BE EXECUTED BY THE MEMBER OR THE MEMBER'S AUTHORIZED OFFICER, DIRECTOR, EMPLOYEE OR AGENT BY SIGNING SUCH CONSENT OR CAUSING HIS SIGNATURE TO BE AFFIXED TO SUCH WAIVER BY ANY REASONABLE MEANS INCLUDING BUT NOT LIMITED TO FACSIMILE SIGNATURE. IF ELECTRONIC, THE TRANSMISSION OF THE CONSENT MUST BE SENT BY ELECTRONIC MAIL AND SET FORTH, OR BE SUBMITTED WITH, INFORMATION FROM WHICH IT CAN REASONABLY BE DETERMINED THAT THE TRANSMISSION WAS AUTHORIZED BY THE MEMBER. This paragraph shall not be construed to alter or modify any provision in a certificate of incorporation not inconsistent with this chapter under which the written consent of less than all of the members is sufficient for corporate action.

(b) Written OR ELECTRONIC consent thus given by all members entitled to vote shall have the same effect as a unanimous vote of members and any certificate with respect to the authorization or taking of any such action which is delivered to the department of state shall recite that the authorization was by [uanimous] UNANIMOUS written consent.

S 66. Paragraph (e) of section 621 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(e) Upon the written request of any person who shall have been a member of record for at least six months immediately preceding his request, or of any person holding, or thereunto authorized in writing by the holders of, at least five percent of any class of the outstanding capital certificates, the corporation shall [give or mail] PROVIDE to such member an annual balance sheet and profit and loss statement or a financial statement performing a similar function for the preceding fiscal year, and, if any interim balance sheet or profit and loss or similar financial statement has been distributed to its members or otherwise made available to the public, the most recent such interim balance sheet or profit and loss or similar financial statement. The corporation shall be allowed a reasonable time to prepare such annual balance sheet and profit and loss or similar financial statement.

S 67. Paragraph (a) of section 702 of the not-for-profit corporation law is amended to read as follows:

(a) The number of directors constituting the entire board shall be not less than three. Subject to such limitation, such number may be fixed by the by-laws or[, in the case of a corporation having members,] by action of the members or of the board under the specific provisions of a by-law [adopted by the members] ALLOWING SUCH ACTION, OR BY ANY NUMBER WITHIN A RANGE SET FORTH IN THE BY-LAWS. If not otherwise fixed under this paragraph, the number shall be three. [As used in this article, "entire

board" means the total number of directors entitled to vote which the corporation would have if there were no vacancies.]

S 68. Paragraphs (b) and (c) of section 708 of the not-for-profit corporation law, paragraph (b) as amended by chapter 92 of the laws of 1983 and paragraph (c) as amended by chapter 211 of the laws of 2007, are amended to read as follows:

(b) Unless otherwise restricted by the certificate of incorporation or the by-laws, any action required or permitted to be taken by the board or any committee thereof may be taken without a meeting if all members of the board or the committee consent [in writing] to the adoption of a resolution authorizing the action. SUCH CONSENT MAY BE WRITTEN OR ELECTRONIC. IF WRITTEN, THE CONSENT MUST BE EXECUTED BY THE DIRECTOR BY SIGNING SUCH CONSENT OR CAUSING HIS OR HER SIGNATURE TO BE AFFIXED TO SUCH CONSENT BY ANY REASONABLE MEANS INCLUDING, BUT NOT LIMITED TO, FACSIMILE SIGNATURE. IF ELECTRONIC, THE TRANSMISSION OF THE CONSENT MUST BE SENT BY ELECTRONIC MAIL AND SET FORTH, OR BE SUBMITTED WITH, INFORMATION FROM WHICH IT CAN REASONABLY BE DETERMINED THAT THE TRANSMISSION WAS AUTHORIZED BY THE DIRECTOR. The resolution and the written consents thereto by the members of the board or committee shall be filed with the minutes of the proceedings of the board or committee.

(c) Unless otherwise restricted by the certificate of incorporation or the by-laws, any one or more members of the board or OF any committee thereof [may participate in] WHO IS NOT PHYSICALLY PRESENT AT a meeting of [such] THE board or A committee MAY PARTICIPATE by means of a conference telephone or similar communications equipment [allowing all persons participating in the meeting to hear each other at the same time] OR BY ELECTRONIC VIDEO SCREEN COMMUNICATION. Participation by such means shall constitute presence in person at a meeting AS LONG AS ALL PERSONS PARTICIPATING IN THE MEETING CAN HEAR EACH OTHER AT THE SAME TIME AND EACH DIRECTOR CAN PARTICIPATE IN ALL MATTERS BEFORE THE BOARD, INCLUDING, WITHOUT LIMITATION, THE ABILITY TO PROPOSE, OBJECT TO, AND VOTE UPON A SPECIFIC ACTION TO BE TAKEN BY THE BOARD OR COMMITTEE.

S 69. Paragraph (c) of section 711 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(c) Notice of a meeting need not be given to any alternate director, nor to any director who submits a [signed] waiver of notice whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to him. SUCH WAIVER OF NOTICE MAY BE WRITTEN OR ELECTRONIC. IF WRITTEN, THE WAIVER MUST BE EXECUTED BY THE DIRECTOR SIGNING SUCH WAIVER OR CAUSING HIS OR HER SIGNATURE TO BE AFFIXED TO SUCH WAIVER BY ANY REASONABLE MEANS INCLUDING BUT NOT LIMITED TO FACSIMILE SIGNATURE. IF ELECTRONIC, THE TRANSMISSION OF THE CONSENT MUST BE SENT BY ELECTRONIC MAIL AND SET FORTH, OR BE SUBMITTED WITH, INFORMATION FROM WHICH IT CAN REASONABLY BE DETERMINED THAT THE TRANSMISSION WAS AUTHORIZED BY THE DIRECTOR.

S 70. Paragraphs (a), (b) and (e) of section 712 of the not-for-profit corporation law, paragraph (e) as amended by chapter 961 of the laws of 1972, are amended to read as follows:

(a) If the certificate of incorporation or the by-laws so provide, the board, by resolution adopted by a majority of the entire board, may designate from among its members an executive committee and other [standing] committees, each consisting of three or more directors, and each of which, to the extent provided in the resolution or in the certificate of incorporation or by-laws, shall have all the authority of

the board, except that no such committee shall have authority as to the following matters:

(1) The submission to members of any action requiring members' approval under this chapter.

(2) The filling of vacancies in the board of directors or in any committee.

(3) The fixing of compensation of the directors for serving on the board or on any committee.

(4) The amendment or repeal of the by-laws or the adoption of new by-laws.

(5) The amendment or repeal of any resolution of the board which by its terms shall not be so amendable or repealable.

(b) The board may designate one or more directors as alternate members of any [standing] committee, who may replace any absent member or members at any meeting of such committee.

(e) Committees, other than [standing or special] committees of the board, whether created by the board or by the members, shall be committees of the corporation. Such committees OF THE CORPORATION may be elected or appointed in the same manner as officers of the corporation, BUT NO SUCH COMMITTEE SHALL HAVE THE AUTHORITY TO BIND THE BOARD. Provisions of this chapter applicable to officers generally shall apply to members of such committees. SUCH COMMITTEES OF THE CORPORATION SHALL BE ELECTED OR APPOINTED IN THE MANNER SET FORTH IN THE BY-LAWS, OR IF NOT SET FORTH IN THE BY-LAWS, IN THE SAME MANNER AS OFFICERS OF THE CORPORATION.

S 71. Paragraph (c) of section 712 of the not-for-profit corporation law is REPEALED.

S 72. The not-for-profit corporation law is amended by adding a new section 712-a to read as follows:

S 712-A. AUDIT OVERSIGHT.

(A) THE BOARD, OR A DESIGNATED AUDIT COMMITTEE OF THE BOARD COMPRISED SOLELY OF INDEPENDENT DIRECTORS, OF ANY CORPORATION REQUIRED TO FILE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT REPORT WITH THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW SHALL OVERSEE THE ACCOUNTING AND FINANCIAL REPORTING PROCESSES OF THE CORPORATION AND THE AUDIT OF THE CORPORATION'S FINANCIAL STATEMENTS. THE BOARD OR DESIGNATED AUDIT COMMITTEE SHALL ANNUALLY RETAIN OR RENEW THE RETENTION OF AN INDEPENDENT AUDITOR TO CONDUCT THE AUDIT AND, UPON COMPLETION THEREOF, REVIEW THE RESULTS OF THE AUDIT AND ANY RELATED MANAGEMENT LETTER WITH THE INDEPENDENT AUDITOR.

(B) THE BOARD, OR A DESIGNATED AUDIT COMMITTEE OF THE BOARD COMPRISED SOLELY OF INDEPENDENT DIRECTORS, OF ANY CORPORATION REQUIRED TO FILE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT REPORT WITH THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW AND THAT IN THE PRIOR FISCAL YEAR HAD OR IN THE CURRENT FISCAL YEAR REASONABLY EXPECTS TO HAVE ANNUAL REVENUE IN EXCESS OF ONE MILLION DOLLARS SHALL, IN ADDITION TO THOSE DUTIES SET FORTH IN PARAGRAPH (A) OF THIS SECTION:

(1) REVIEW WITH THE INDEPENDENT AUDITOR THE SCOPE AND PLANNING OF THE AUDIT PRIOR TO THE AUDIT'S COMMENCEMENT;

(2) UPON COMPLETION OF THE AUDIT, REVIEW AND DISCUSS WITH THE INDEPENDENT AUDITOR: (A) ANY MATERIAL RISKS AND WEAKNESSES IN INTERNAL CONTROLS IDENTIFIED BY THE AUDITOR; (B) ANY RESTRICTIONS ON THE SCOPE OF THE AUDITOR'S ACTIVITIES OR ACCESS TO REQUESTED INFORMATION; (C) ANY SIGNIFICANT DISAGREEMENTS BETWEEN THE AUDITOR AND MANAGEMENT; AND (D)

THE ADEQUACY OF THE CORPORATION'S ACCOUNTING AND FINANCIAL REPORTING PROCESSES;

(3) ANNUALLY CONSIDER THE PERFORMANCE AND INDEPENDENCE OF THE INDEPENDENT AUDITOR; AND

(4) IF THE DUTIES REQUIRED BY THIS SECTION ARE PERFORMED BY AN AUDIT COMMITTEE, REPORT ON THE COMMITTEE'S ACTIVITIES TO THE BOARD.

(C) THE BOARD OR DESIGNATED AUDIT COMMITTEE OF THE BOARD SHALL OVERSEE THE ADOPTION, IMPLEMENTATION OF, AND COMPLIANCE WITH ANY CONFLICT OF INTEREST POLICY OR WHISTLEBLOWER POLICY ADOPTED BY THE CORPORATION IF THIS FUNCTION IS NOT OTHERWISE PERFORMED BY ANOTHER COMMITTEE OF THE BOARD COMPRISED SOLELY OF INDEPENDENT DIRECTORS.

(D) IF A CORPORATION CONTROLS A GROUP OF CORPORATIONS, THE BOARD OR DESIGNATED AUDIT COMMITTEE OF THE BOARD OF THE CONTROLLING CORPORATION MAY PERFORM THE DUTIES REQUIRED BY THIS SECTION FOR ONE OR MORE OF THE CONTROLLED CORPORATIONS.

(E) ONLY INDEPENDENT DIRECTORS MAY PARTICIPATE IN ANY BOARD OR COMMITTEE DELIBERATIONS OR VOTING RELATING TO MATTERS SET FORTH IN THIS SECTION.

(F) ANY CORPORATION THAT IS A STATE AUTHORITY OR A LOCAL AUTHORITY AS DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW AND THAT HAS COMPLIED SUBSTANTIALLY WITH SECTIONS TWENTY-EIGHT HUNDRED TWO AND TWENTY-EIGHT HUNDRED TWENTY-FOUR OF SUCH LAW SHALL BE DEEMED IN COMPLIANCE WITH THIS SECTION.

S 73. Paragraph (a) of section 713 of the not-for-profit corporation law is amended, and a new paragraph (f) is added to read as follows:

(a) The board may elect or appoint a CHAIR OR president, OR BOTH, one or more vice-presidents, a secretary and a treasurer, and such other officers as it may determine, or as may be provided in the by-laws. These officers may be designated by such alternate titles as may be provided in the certificate of incorporation or the by-laws. Any two or more offices may be held by the same person, except the offices of president and secretary, or the offices corresponding thereto.

(F) NO EMPLOYEE OF THE CORPORATION SHALL SERVE AS CHAIR OF THE BOARD OR HOLD ANY OTHER TITLE WITH SIMILAR RESPONSIBILITIES.

S 74. Section 715 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970 and paragraph (f) as amended by chapter 1057 of the laws of 1971, is amended to read as follows:

S 715. [Interested directors and officers] RELATED PARTY TRANSACTIONS.

(a) [No contract or other transaction between a corporation and one or more of its directors or officers, or between a corporation and any other corporation, firm, association or other entity in which one or more of its directors or officers are directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such director or directors or officer or officers are present at the meeting of the board, or of a committee thereof, which authorizes such contract or transaction, or that his or their votes are counted for such purpose:

(1) If the material facts as to such director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known to the board or committee, and the board or committee authorizes such contract or transaction by a vote sufficient for such purpose without counting the vote or votes of such interested director or officer; or

(2) If the material facts as to such director's or officer's interest in such contract or transaction and as to any such common directorship, officership or financial interest are disclosed in good faith or known

to the members entitled to vote thereon, if any, and such contract or transaction is authorized by vote of such members.

(b) If such good faith disclosure of the material facts as to the director's or officer's interest in the contract or transaction and as to any such common directorship, officership or financial interest, is made to the directors or members, or known to the board or committee or members authorizing such contract or transaction, as provided in paragraph (a), the contract or transaction may not be avoided by the corporation for the reasons set forth in paragraph (a). If there was no such disclosure or knowledge, or if the vote of such interested director or officer was necessary for the authorization of such contract or transaction at a meeting of the board or committee at which it was authorized, the corporation may avoid the contract or transaction unless the party or parties thereto shall establish affirmatively that the contract or transaction was fair and reasonable as to the corporation at the time it was authorized by the board, a committee or the members.

(c) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board or of a committee which authorizes such contract or transaction.

(d)] NO CORPORATION SHALL ENTER INTO ANY RELATED PARTY TRANSACTION UNLESS THE TRANSACTION IS DETERMINED BY THE BOARD TO BE FAIR, REASONABLE AND IN THE CORPORATION'S BEST INTEREST AT THE TIME OF SUCH DETERMINATION. ANY DIRECTOR, OFFICER OR KEY EMPLOYEE WHO HAS AN INTEREST IN A RELATED PARTY TRANSACTION SHALL DISCLOSE IN GOOD FAITH TO THE BOARD, OR AN AUTHORIZED COMMITTEE THEREOF, THE MATERIAL FACTS CONCERNING SUCH INTEREST.

(B) WITH RESPECT TO ANY RELATED PARTY TRANSACTION INVOLVING A CHARITABLE CORPORATION AND IN WHICH A RELATED PARTY HAS A SUBSTANTIAL FINANCIAL INTEREST, THE BOARD OF SUCH CORPORATION, OR AN AUTHORIZED COMMITTEE THEREOF, SHALL:

(1) PRIOR TO ENTERING INTO THE TRANSACTION, CONSIDER ALTERNATIVE TRANSACTIONS TO THE EXTENT AVAILABLE;

(2) APPROVE THE TRANSACTION BY NOT LESS THAN A MAJORITY VOTE OF THE DIRECTORS OR COMMITTEE MEMBERS PRESENT AT THE MEETING; AND

(3) CONTEMPORANEOUSLY DOCUMENT IN WRITING THE BASIS FOR THE BOARD OR AUTHORIZED COMMITTEE'S APPROVAL, INCLUDING ITS CONSIDERATION OF ANY ALTERNATIVE TRANSACTIONS.

(C) The certificate of incorporation, BY-LAWS OR ANY POLICY ADOPTED BY THE BOARD may contain additional restrictions on [contracts or] RELATED PARTY transactions [between a corporation and its directors or officers or other persons and may] AND ADDITIONAL PROCEDURES NECESSARY FOR THE REVIEW AND APPROVAL OF SUCH TRANSACTIONS, OR provide that [contracts or transactions] ANY TRANSACTION in violation of such restrictions shall be void or voidable.

[(e)] (D) Unless otherwise provided in the certificate of incorporation or the by-laws, the board shall have authority to fix the compensation of directors for services in any capacity.

[(f)] (E) The fixing of salaries of officers, if not done in or pursuant to the by-laws, shall require the affirmative vote of a majority of the entire board unless a higher proportion is set by the certificate of incorporation or by-laws.

(F) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN, VOID OR RESCIND ANY RELATED PARTY TRANSACTION OR PROPOSED RELATED PARTY TRANSACTION THAT VIOLATES ANY LAW OR TO SEEK OTHER RELIEF, INCLUDING BUT NOT LIMITED TO DAMAGES, RESTITUTION, AND THE REMOVAL OF DIRECTORS OR OFFICERS, OR SEEK TO REQUIRE ANY PERSON OR ENTITY TO:

(1) ACCOUNT FOR ANY PROFITS MADE FROM SUCH TRANSACTION, AND PAY THEM TO THE CORPORATION;

(2) PAY THE CORPORATION THE VALUE OF THE USE OF ANY OF ITS PROPERTY OR OTHER ASSETS USED IN SUCH TRANSACTION;

(3) RETURN OR REPLACE ANY PROPERTY OR OTHER ASSETS LOST TO THE CORPORATION AS A RESULT OF SUCH TRANSACTION, TOGETHER WITH ANY INCOME OR APPRECIATION LOST TO THE CORPORATION BY REASON OF SUCH TRANSACTION, OR ACCOUNT FOR ANY PROCEEDS OF SALE OF SUCH PROPERTY, AND PAY THE PROCEEDS TO THE CORPORATION TOGETHER WITH INTEREST AT THE LEGAL RATE; AND

(4) PAY, IN THE CASE OF WILLFUL AND INTENTIONAL CONDUCT, AN AMOUNT UP TO DOUBLE THE AMOUNT OF ANY BENEFIT IMPROPERLY OBTAINED.

(F) THE POWERS OF THE ATTORNEY GENERAL PROVIDED IN THIS SECTION ARE IN ADDITION TO ALL OTHER POWERS THE ATTORNEY GENERAL MAY HAVE UNDER THIS CHAPTER OR ANY OTHER LAW.

(G) NO RELATED PARTY MAY PARTICIPATE IN DELIBERATIONS OR VOTING RELATING TO MATTERS SET FORTH IN THIS SECTION; PROVIDED THAT NOTHING IN THIS SECTION SHALL PROHIBIT THE BOARD OR AUTHORIZED COMMITTEE FROM REQUESTING THAT A RELATED PARTY PRESENT INFORMATION CONCERNING A RELATED PARTY TRANSACTION AT A BOARD OR COMMITTEE MEETING PRIOR TO THE COMMENCEMENT OF DELIBERATIONS OR VOTING RELATING THERETO.

S 75. The not-for-profit corporation law is amended by adding two new sections 715-a and 715-b to read as follows:

S 715-A. CONFLICT OF INTEREST POLICY.

(A) EXCEPT AS PROVIDED IN PARAGRAPH (D) OF THIS SECTION, EVERY CORPORATION SHALL ADOPT A CONFLICT OF INTEREST POLICY TO ENSURE THAT ITS DIRECTORS, OFFICERS AND KEY EMPLOYEES ACT IN THE CORPORATION'S BEST INTEREST AND COMPLY WITH APPLICABLE LEGAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO THE REQUIREMENTS SET FORTH IN SECTION SEVEN HUNDRED FIFTEEN OF THIS ARTICLE.

(B) THE CONFLICT OF INTEREST POLICY SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING PROVISIONS:

(1) A DEFINITION OF THE CIRCUMSTANCES THAT CONSTITUTE A CONFLICT OF INTEREST;

(2) PROCEDURES FOR DISCLOSING A CONFLICT OF INTEREST TO THE AUDIT COMMITTEE OR, IF THERE IS NO AUDIT COMMITTEE, TO THE BOARD;

(3) A REQUIREMENT THAT THE PERSON WITH THE CONFLICT OF INTEREST NOT BE PRESENT AT OR PARTICIPATE IN BOARD OR COMMITTEE DELIBERATION OR VOTE ON THE MATTER GIVING RISE TO SUCH CONFLICT;

(4) A PROHIBITION AGAINST ANY ATTEMPT BY THE PERSON WITH THE CONFLICT TO INFLUENCE IMPROPERLY THE DELIBERATION OR VOTING ON THE MATTER GIVING RISE TO SUCH CONFLICT;

(5) A REQUIREMENT THAT THE EXISTENCE AND RESOLUTION OF THE CONFLICT BE DOCUMENTED IN THE CORPORATION'S RECORDS, INCLUDING IN THE MINUTES OF ANY MEETING AT WHICH THE CONFLICT WAS DISCUSSED OR VOTED UPON; AND

(6) PROCEDURES FOR DISCLOSING, ADDRESSING, AND DOCUMENTING RELATED PARTY TRANSACTIONS IN ACCORDANCE WITH SECTION SEVEN HUNDRED FIFTEEN OF THIS ARTICLE.

(C) THE CONFLICT OF INTEREST POLICY SHALL REQUIRE THAT PRIOR TO THE INITIAL ELECTION OF ANY DIRECTOR, AND ANNUALLY THEREAFTER, SUCH DIRECTOR SHALL COMPLETE, SIGN AND SUBMIT TO THE SECRETARY OF THE CORPORATION A WRITTEN STATEMENT IDENTIFYING, TO THE BEST OF THE DIRECTOR'S KNOWLEDGE, ANY ENTITY OF WHICH SUCH DIRECTOR IS AN OFFICER, DIRECTOR, TRUSTEE, MEMBER, OWNER (EITHER AS A SOLE PROPRIETOR OR A PARTNER), OR EMPLOYEE AND WITH WHICH THE CORPORATION HAS A RELATIONSHIP, AND ANY TRANSACTION IN WHICH THE CORPORATION IS A PARTICIPANT AND IN WHICH THE DIRECTOR MIGHT HAVE A CONFLICTING INTEREST. THE POLICY SHALL REQUIRE THAT EACH

DIRECTOR ANNUALLY RESUBMIT SUCH WRITTEN STATEMENT. THE SECRETARY OF THE CORPORATION SHALL PROVIDE A COPY OF ALL COMPLETED STATEMENTS TO THE CHAIR OF THE AUDIT COMMITTEE OR, IF THERE IS NO AUDIT COMMITTEE, TO THE CHAIR OF THE BOARD.

(D) A CORPORATION THAT HAS ADOPTED AND POSSESSES A CONFLICT OF INTEREST POLICY PURSUANT TO FEDERAL, STATE OR LOCAL LAWS THAT IS SUBSTANTIALLY CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SECTION SHALL BE DEEMED IN COMPLIANCE WITH PROVISIONS OF THIS SECTION. IN ADDITION, ANY CORPORATION THAT IS A STATE AUTHORITY OR A LOCAL AUTHORITY AS DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, AND THAT HAS COMPLIED SUBSTANTIALLY WITH SECTION TWENTY-EIGHT HUNDRED TWENTY-FOUR AND SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED TWENTY-FIVE OF SUCH LAW, SHALL BE DEEMED IN COMPLIANCE WITH THIS SECTION.

(E) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO REQUIRE A CORPORATION TO ADOPT ANY SPECIFIC CONFLICT OF INTEREST POLICY NOT OTHERWISE REQUIRED BY THIS SECTION OR ANY OTHER LAW OR RULE, OR TO SUPERSEDE OR LIMIT ANY REQUIREMENT OR DUTY GOVERNING CONFLICTS OF INTEREST REQUIRED BY ANY OTHER LAW OR RULE.

S 715-B. WHISTLEBLOWER POLICY.

(A) EXCEPT AS PROVIDED IN PARAGRAPH (C) OF THIS SECTION, EVERY CORPORATION THAT HAS TWENTY OR MORE EMPLOYEES AND IN THE PRIOR FISCAL YEAR HAD ANNUAL REVENUE IN EXCESS OF ONE MILLION DOLLARS SHALL ADOPT A WHISTLEBLOWER POLICY TO PROTECT FROM RETALIATION PERSONS WHO REPORT SUSPECTED IMPROPER CONDUCT. SUCH POLICY SHALL PROVIDE THAT NO DIRECTOR, OFFICER, EMPLOYEE OR VOLUNTEER OF A CORPORATION WHO IN GOOD FAITH REPORTS ANY ACTION OR SUSPECTED ACTION TAKEN BY OR WITHIN THE CORPORATION THAT IS ILLEGAL, FRAUDULENT OR IN VIOLATION OF ANY ADOPTED POLICY OF THE CORPORATION SHALL SUFFER INTIMIDATION, HARASSMENT, DISCRIMINATION OR OTHER RETALIATION OR, IN THE CASE OF EMPLOYEES, ADVERSE EMPLOYMENT CONSEQUENCE.

(B) THE WHISTLEBLOWER POLICY SHALL INCLUDE THE FOLLOWING PROVISIONS:

(1) PROCEDURES FOR THE REPORTING OF VIOLATIONS OR SUSPECTED VIOLATIONS OF LAWS OR CORPORATE POLICIES, INCLUDING PROCEDURES FOR PRESERVING THE CONFIDENTIALITY OF REPORTED INFORMATION;

(2) A REQUIREMENT THAT AN EMPLOYEE, OFFICER OR DIRECTOR OF THE CORPORATION BE DESIGNATED TO ADMINISTER THE WHISTLEBLOWER POLICY AND TO REPORT TO THE AUDIT COMMITTEE OR OTHER COMMITTEE OF INDEPENDENT DIRECTORS OR, IF THERE ARE NO SUCH COMMITTEES, TO THE BOARD; AND

(3) A REQUIREMENT THAT A COPY OF THE POLICY BE DISTRIBUTED TO ALL DIRECTORS, OFFICERS, EMPLOYEES AND TO VOLUNTEERS WHO PROVIDE SUBSTANTIAL SERVICES TO THE CORPORATION.

(C) A CORPORATION THAT HAS ADOPTED AND POSSESSES A WHISTLEBLOWER POLICY PURSUANT TO FEDERAL, STATE OR LOCAL LAWS THAT IS SUBSTANTIALLY CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (B) OF THIS SECTION SHALL BE DEEMED IN COMPLIANCE WITH PROVISIONS OF THIS SECTION. IN ADDITION, ANY CORPORATION THAT IS A STATE AUTHORITY AS DEFINED IN SECTION TWO OF THE PUBLIC AUTHORITIES LAW, AND THAT HAS COMPLIED SUBSTANTIALLY WITH SECTION TWENTY-EIGHT HUNDRED TWENTY-FOUR OF SUCH LAW AND IS SUBJECT TO THE PROVISIONS OF SECTION TWENTY-EIGHT HUNDRED FIFTY-SEVEN OF SUCH LAW, SHALL BE DEEMED IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION.

(D) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO RELIEVE ANY CORPORATION FROM ANY ADDITIONAL REQUIREMENTS IN RELATION TO INTERNAL COMPLIANCE, RETALIATION, OR DOCUMENT RETENTION REQUIRED BY ANY OTHER LAW OR RULE.

S 76. Section 716 of the not-for-profit corporation law, as amended by chapter 644 of the laws of 1971, is amended to read as follows:

S 716. Loans to directors and officers.

No loans, other than through the purchase of bonds, debentures, or similar obligations of the type customarily sold in public offerings, or through ordinary deposit of funds in a bank, shall be made by a corporation to its directors or officers, or to any other corporation, firm, association or other entity in which one or more of its directors or officers are directors or officers or hold a substantial financial interest, except a loan by one [type B] CHARITABLE corporation to another [type B] CHARITABLE corporation. A loan made in violation of this section shall be a violation of the duty to the corporation of the directors or officers authorizing it or participating in it, but the obligation of the borrower with respect to the loan shall not be affected thereby.

S 77. Section 718 of the not-for-profit corporation law, as amended by chapter 992 of the laws of 1970, is amended to read as follows:

S 718. List of directors and officers.

(a) If a member or creditor of a corporation, in person or by his attorney or agent, or a representative of the district attorney or of the secretary of state, the attorney general, or other state official, makes a written demand on a corporation to inspect a current list of its directors and officers [and their residence addresses], the corporation shall, within two business days after receipt of the demand and for a period of one week thereafter, make the list available for such inspection at its office during usual business hours.

(b) Upon refusal by the corporation to make a current list of its directors and officers [and their residence addresses] available, as provided in paragraph (a) OF THIS SECTION, the person making a demand for such list may apply, ex parte, to the supreme court at a special term held within the judicial district where the office of the corporation is located for an order directing the corporation to make such list available. The court may grant such order or take such other action as it may deem just and proper.

S 78. The section heading and paragraph (a) of section 720 of the not-for-profit corporation law, the section heading as amended by chapter 1058 of the laws of 1971, are amended to read as follows:

Actions [on behalf of the corporation] AGAINST DIRECTORS, OFFICERS AND KEY EMPLOYEES.

(a) An action may be brought against one or more directors [or], officers, OR KEY EMPLOYEES of a corporation to procure a judgment for the following relief:

(1) To compel the defendant to account for his official conduct in the following cases:

(A) The neglect of, or failure to perform, or other violation of his duties in the management and disposition of corporate assets committed to his charge.

(B) The acquisition by himself, transfer to others, loss or waste of corporate assets due to any neglect of, or failure to perform, or other violation of his duties.

(2) To set aside an unlawful conveyance, assignment or transfer of corporate assets, where the transferee knew of its unlawfulness.

(3) To enjoin a proposed unlawful conveyance, assignment or transfer of corporate assets, where there are reasonable grounds for belief that it will be made.

S 79. Paragraphs (a) and (c) of section 722 of the not-for-profit corporation law, as amended by chapter 368 of the laws of 1987, are amended to read as follows:

(a) A corporation may indemnify any person, made, or threatened to be made, a party to an action or proceeding other than one by or in the right of the corporation to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other corporation of any [type or] kind, domestic or foreign, or any partnership, joint venture, trust, employee benefit plan or other enterprise, which any director or officer of the corporation served in any capacity at the request of the corporation, by reason of the fact that he, his testator or intestate, was a director or officer of the corporation, or served such other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise in any capacity, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the corporation and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his conduct was unlawful.

(c) A corporation may indemnify any person made, or threatened to be made, a party to an action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he, his testator or intestate, is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director or officer of any other corporation of any [type or] kind, domestic or foreign, of any partnership, joint venture, trust, employee benefit plan or other enterprise, against amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in, or, in the case of service for any other corporation or any partnership, joint venture, trust, employee benefit plan or other enterprise, not opposed to, the best interests of the corporation, except that no indemnification under this paragraph shall be made in respect of (1) a threatened action, or a pending action which is settled or otherwise disposed of, or (2) any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation, unless and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

S 80. Paragraph (a) of section 724 of the not-for-profit corporation law, as amended by chapter 368 of the laws of 1987, is amended to read as follows:

(a) Notwithstanding the failure of a corporation to provide indemnification, and despite any contrary resolution of the board or of the members in the specific case under section 723 (Payment of indemnification other than by court award), indemnification shall be awarded by a court to the extent authorized under section 722 (Authorization for indemnification of directors and officers), and paragraph (a) of section 723 (PAYMENT OF INDEMNIFICATION OTHER THAN BY COURT AWARD). Application

therefor SHALL BE MADE ON NOTICE TO THE ATTORNEY GENERAL AND may be made, in every case, either:

(1) In the civil action or proceeding in which the expenses were incurred or other amounts were paid, or

(2) To the supreme court in a separate proceeding, in which case the application shall set forth the disposition of any previous application made to any court for the same or similar relief and also reasonable cause for the failure to make application for such relief in the action or proceeding in which the expenses were incurred or other amounts were paid.

S 81. Subparagraph 3 of paragraph (a) of section 803 of the not-for-profit corporation law, as amended by chapter 168 of the laws of 1982, is amended to read as follows:

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

S 82. The section heading and paragraph (a) of section 804 of the not-for-profit corporation law, as amended by chapter 139 of the laws of 1993, and subparagraph (i) of paragraph (a) as amended by chapter 198 of the laws of 2010, are amended to read as follows:

Approvals, NOTICES and effect.

(a) (i) A certificate of amendment shall not be filed if the amendment adds, changes or eliminates a purpose, power or provision the inclusion of which in a certificate of incorporation requires consent or approval of a governmental body or officer or any other person or body, or if the amendment changes the name of a corporation whose certificate of incorporation had such consent or approval endorsed thereon or annexed thereto, unless such consent or approval is no longer required or is endorsed on or annexed to the certificate of amendment. A CERTIFICATE OF AMENDMENT ADDING, CHANGING OR ELIMINATING A PURPOSE, POWER OR PROVISION THE INCLUSION OF WHICH IN A CERTIFICATE OF INCORPORATION REQUIRES THE INCORPORATOR TO SEND SUCH CERTIFICATE TO A GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR BODY, OR IF THE AMENDMENT CHANGES THE NAME OF A CORPORATION WHOSE CERTIFICATE OF INCORPORATION WAS REQUIRED TO BE DELIVERED BY THE INCORPORATOR TO A GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR BODY, SHALL BE DELIVERED BY THE PERSON OR ENTITY FILING THE CERTIFICATE OF AMENDMENT WITHIN THIRTY BUSINESS DAYS AFTER THE CORPORATION RECEIVES CONFIRMATION FROM THE DEPARTMENT OF STATE THAT THE CERTIFICATE HAS BEEN ACCEPTED FOR FILING.

(ii) Every certificate of amendment of a CHARITABLE corporation [classified as type B or type C under section 201 (Purposes)] which seeks to change or eliminate a purpose or power enumerated in the corporation's certificate of incorporation, or to add a power or purpose not enumerated therein, shall have endorsed thereon or annexed thereto the approval of EITHER (A) THE ATTORNEY GENERAL, OR (B) a justice of the supreme court of the judicial district in which the office of the corporation is located. [Ten days' written notice of the application for such approval shall be given to the attorney-general] AT ANY TIME, INCLUDING IF THE ATTORNEY GENERAL DOES NOT APPROVE A CERTIFICATE OF AMENDMENT SUBMITTED PURSUANT TO CLAUSE (A) OF THIS SUBPARAGRAPH, OR IF THE ATTORNEY GENERAL CONCLUDES THAT COURT REVIEW IS APPROPRIATE, THE CORPORATION MAY APPLY FOR APPROVAL OF THE AMENDMENT TO A JUSTICE OF THE SUPREME COURT OF THE JUDICIAL DISTRICT IN WHICH THE OFFICE OF THE CORPORATION IS LOCATED. ANY APPLICATION FOR APPROVAL OF A CERTIFICATE OF AMENDMENT BY

THE SUPREME COURT PURSUANT TO THIS PARAGRAPH SHALL BE ON TEN DAYS' WRITTEN NOTICE TO THE ATTORNEY GENERAL.

S 83. Section 907 of the not-for-profit corporation law is amended to read as follows:

S 907. Approval by the supreme court OR ATTORNEY GENERAL.

[(a)] Where any constituent corporation or the consolidated corporation is, or would be if formed under this chapter, a [Type B or a Type C] CHARITABLE corporation under section 201 (Purposes) of this chapter, no certificate shall be filed pursuant to section 904 (Certificate of merger or consolidation; contents) or section 906 (Merger or consolidation of domestic and foreign corporations) until (A) THE SUPREME COURT HAS GRANTED an order approving the plan of merger or consolidation and authorizing the filing of the certificate [has been made by the supreme court], as provided in [this] section[. A certified copy of such order shall be annexed to the certificate of merger or consolidation. Application for the order may be made in the judicial district in which the principal office of the surviving or consolidated corporation is to be located, or in which the office of one of the domestic constituent corporations is located. The application shall be made by all the constituent corporations jointly and shall set forth by affidavit (1) the plan of merger or consolidation, (2) the approval required by section 903 (Approval of plan) or paragraph (b) of section 906 (Merger or consolidation of domestic and foreign corporations) for each constituent corporation, (3) the objects and purposes of each such corporation to be promoted by the consolidation, (4) a statement of all property, and the manner in which it is held, and of all liabilities and of the amount and sources of the annual income of each such corporation, (5) whether any votes against adoption of the resolution approving the plan of merger or consolidation were cast at the meeting at which the resolution as adopted by each constituent corporation, and (6) facts showing that the consolidation is authorized by the laws of the jurisdictions under which each of the constituent corporations is incorporated] 907-A (APPLICATION FOR APPROVAL OF THE SUPREME COURT) OF THIS ARTICLE OR (B) THE ATTORNEY GENERAL HAS APPROVED THE PLAN OF MERGER OR CONSOLIDATION AND AUTHORIZED THE FILING OF THE CERTIFICATE, AS PROVIDED IN SECTION 907-B (APPLICATION FOR APPROVAL OF THE ATTORNEY GENERAL) OF THIS ARTICLE.

[(b) Upon the filing of the application the court shall fix a time for hearing thereof and shall direct that notice thereof be given to such persons as may be interested, including the attorney general, any governmental body or officer and any other person or body whose consent or approval is required by section 909 (Consent to filing), in such form and manner as the court may prescribe. If no votes against adoption of the resolution approving the plan of merger or consolidation were cast at the meeting at which the resolution was adopted by any constituent corporation the court may dispense with notice to anyone except the attorney-general, any governmental body or officer and any other person or body whose consent or approval is required by section 909 (Consent to filing). Any person interested may appear and show cause why the application should not be granted.

(c) If the court shall find that any of the assets of any of the constituent corporations are held for a purpose specified as Type B in paragraph (b) of section 201 or are legally required to be used for a particular purpose, but not upon a condition requiring return, transfer or conveyance by reason of the merger or consolidation, the court may, in its discretion, direct that such assets be transferred or conveyed to

the surviving or consolidated corporation subject to such purpose or use, or that such assets be transferred or conveyed to the surviving or consolidated corporation or to one or more other domestic or foreign corporations or organizations engaged in substantially similar activities, upon an express trust the terms of which shall be approved by the court.

(d) If the court shall find that the interests of non-consenting members are or may be substantially prejudiced by the proposed merger or consolidation, the court may disapprove the plan or may direct a modification thereof. In the event of a modification, if the court shall find that the interests of any members may be substantially prejudiced by the proposed merger or consolidation as modified, the court shall direct that the modified plan be submitted to vote of the members of the constituent corporations, or if the court shall find that there is not such substantial prejudice, it shall approve the agreement as so modified without further approval by the members. If the court, upon directing a modification of the plan of merger or consolidation, shall direct that a further approval be obtained from members of the constituent corporations or any of them, such further approval shall be obtained in the manner specified in section 903 (Approval of plan) or section 906(b) (Merger or consolidation of domestic and foreign corporations) of this chapter.

(e) If it shall appear, to the satisfaction of the court, that the provisions of this section have been complied with, and that the interests of the constituent corporations and the public interest will not be adversely affected by the merger or consolidation, it shall approve the merger or consolidation upon such terms and conditions as it may prescribe.]

S 84. The not-for-profit corporation law is amended by adding a new section 907-a to read as follows:

S 907-A. APPLICATION FOR APPROVAL OF THE SUPREME COURT.

(A) APPLICATION FOR AN ORDER APPROVING THE PLAN OF MERGER AND AUTHORIZING THE FILING OF THE CERTIFICATE MAY BE MADE IN THE JUDICIAL DISTRICT IN WHICH THE PRINCIPAL OFFICE OF THE SURVIVING OR CONSOLIDATED CORPORATION IS TO BE LOCATED, OR IN WHICH THE OFFICE OF ONE OF THE DOMESTIC CONSTITUENT CORPORATIONS IS LOCATED. THE APPLICATION SHALL BE MADE BY ALL THE CONSTITUENT CORPORATIONS JOINTLY AND SHALL SET FORTH BY AFFIDAVIT: (1) THE PLAN OF MERGER OR CONSOLIDATION, (2) THE APPROVAL REQUIRED BY SECTION 903 (APPROVAL OF PLAN) OR PARAGRAPH (B) OF SECTION 906 (MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN CORPORATIONS) OF THIS ARTICLE FOR EACH CONSTITUENT CORPORATION, (3) THE OBJECTS AND PURPOSES OF EACH SUCH CORPORATION TO BE PROMOTED BY THE MERGER OR CONSOLIDATION, (4) A STATEMENT OF ALL PROPERTY, AND THE MANNER IN WHICH IT IS HELD, AND OF ALL LIABILITIES AND OF THE AMOUNT AND SOURCES OF THE ANNUAL INCOME OF EACH SUCH CORPORATION, (5) WHETHER ANY VOTES AGAINST ADOPTION OF THE RESOLUTION APPROVING THE PLAN OF MERGER OR CONSOLIDATION WERE CAST AT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED BY EACH CONSTITUENT CORPORATION, AND (6) FACTS SHOWING THAT THE CONSOLIDATION IS AUTHORIZED BY THE LAWS OF THE JURISDICTIONS UNDER WHICH EACH OF THE CONSTITUENT CORPORATIONS IS INCORPORATED.

(B) UPON THE FILING OF THE APPLICATION THE COURT SHALL FIX A TIME FOR HEARING THEREOF AND SHALL DIRECT THAT NOTICE THEREOF BE GIVEN TO SUCH PERSONS AS MAY BE INTERESTED, INCLUDING THE ATTORNEY GENERAL, ANY GOVERNMENTAL BODY OR OFFICER AND ANY OTHER PERSON OR BODY WHOSE CONSENT OR APPROVAL IS REQUIRED BY SECTION 909 (CONSENT TO FILING) OF THIS ARTICLE, IN SUCH FORM AND MANNER AS THE COURT MAY PRESCRIBE. IF NO VOTES

AGAINST ADOPTION OF THE RESOLUTION APPROVING THE PLAN OF MERGER OR CONSOLIDATION WERE CAST AT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED BY ANY CONSTITUENT CORPORATION THE COURT MAY DISPENSE WITH NOTICE TO ANYONE EXCEPT THE ATTORNEY-GENERAL, ANY GOVERNMENTAL BODY OR OFFICER AND ANY OTHER PERSON OR BODY WHOSE CONSENT OR APPROVAL IS REQUIRED BY SECTION 909 (CONSENT TO FILING) OF THIS ARTICLE. ANY PERSON INTERESTED MAY APPEAR AND SHOW CAUSE WHY THE APPLICATION SHOULD NOT BE GRANTED.

(C) IF THE COURT SHALL FIND THAT ANY OF THE ASSETS OF ANY OF THE CONSTITUENT CORPORATIONS ARE HELD FOR A CHARITABLE PURPOSE OR ARE LEGALLY REQUIRED TO BE USED FOR A PARTICULAR PURPOSE, BUT NOT UPON A CONDITION REQUIRING RETURN, TRANSFER OR CONVEYANCE BY REASON OF THE MERGER OR CONSOLIDATION, THE COURT MAY, IN ITS DISCRETION, DIRECT THAT SUCH ASSETS BE TRANSFERRED OR CONVEYED TO THE SURVIVING OR CONSOLIDATED CORPORATION SUBJECT TO SUCH PURPOSE OR USE, OR THAT SUCH ASSETS BE TRANSFERRED OR CONVEYED TO THE SURVIVING OR CONSOLIDATED CORPORATION OR TO ONE OR MORE OTHER DOMESTIC OR FOREIGN CORPORATIONS OR ORGANIZATIONS ENGAGED IN SUBSTANTIALLY SIMILAR ACTIVITIES, UPON AN EXPRESS TRUST THE TERMS OF WHICH SHALL BE APPROVED BY THE COURT.

(D) IF THE COURT SHALL FIND THAT THE INTERESTS OF NON-CONSENTING MEMBERS ARE OR MAY BE SUBSTANTIALLY PREJUDICED BY THE PROPOSED MERGER OR CONSOLIDATION, THE COURT MAY DISAPPROVE THE PLAN OR MAY DIRECT A MODIFICATION THEREOF. IN THE EVENT OF A MODIFICATION, IF THE COURT SHALL FIND THAT THE INTERESTS OF ANY MEMBERS MAY BE SUBSTANTIALLY PREJUDICED BY THE PROPOSED MERGER OR CONSOLIDATION AS MODIFIED, THE COURT SHALL DIRECT THAT THE MODIFIED PLAN BE SUBMITTED TO VOTE OF THE MEMBERS OF THE CONSTITUENT CORPORATIONS, OR IF THE COURT SHALL FIND THAT THERE IS NOT SUCH SUBSTANTIAL PREJUDICE, IT SHALL APPROVE THE AGREEMENT AS SO MODIFIED WITHOUT FURTHER APPROVAL BY THE MEMBERS. IF THE COURT, UPON DIRECTING A MODIFICATION OF THE PLAN OF MERGER OR CONSOLIDATION, SHALL DIRECT THAT A FURTHER APPROVAL BE OBTAINED FROM MEMBERS OF THE CONSTITUENT CORPORATIONS OR ANY OF THEM, SUCH FURTHER APPROVAL SHALL BE OBTAINED IN THE MANNER SPECIFIED IN SECTION 903 (APPROVAL OF PLAN) OR PARAGRAPH (B) OF SECTION 906 (MERGER OR CONSOLIDATION OF DOMESTIC AND FOREIGN CORPORATIONS) OF THIS ARTICLE.

(E) IF IT SHALL APPEAR, TO THE SATISFACTION OF THE COURT, THAT THE PROVISIONS OF THIS SECTION HAVE BEEN COMPLIED WITH, AND THAT THE INTERESTS OF THE CONSTITUENT CORPORATIONS AND THE PUBLIC INTEREST WILL NOT BE ADVERSELY AFFECTED BY THE MERGER OR CONSOLIDATION, IT SHALL APPROVE THE MERGER OR CONSOLIDATION UPON SUCH TERMS AND CONDITIONS AS IT MAY PRESCRIBE.

(F) A CERTIFIED COPY OF SUCH ORDER SHALL BE ANNEXED TO THE CERTIFICATE OF MERGER OR CONSOLIDATION.

S 85. The not-for-profit corporation law is amended by adding a new section 907-b to read as follows:

S 907-B. APPLICATION FOR APPROVAL OF THE ATTORNEY GENERAL.

(A) IN LIEU OF OBTAINING AN ORDER APPROVING THE PLAN OF MERGER OR CONSOLIDATION AND AUTHORIZING THE FILING OF THE CERTIFICATE, THE CORPORATION MAY ALTERNATIVELY MAKE AN APPLICATION TO THE ATTORNEY GENERAL FOR APPROVAL, EXCEPT WHERE THE ATTORNEY GENERAL, IN HIS OR HER DISCRETION, CONCLUDES THAT A COURT SHOULD REVIEW THE APPLICATION AND MAKE A DETERMINATION THEREON.

(B) THE APPLICATION TO THE ATTORNEY GENERAL SHALL BE MADE BY ALL THE CONSTITUENT CORPORATIONS JOINTLY AND SHALL SET FORTH BY AFFIDAVIT: (I) ALL OF THE INFORMATION REQUIRED TO BE INCLUDED IN AN APPLICATION TO OBTAIN COURT APPROVAL PURSUANT TO SECTION 907-A (APPLICATION FOR

APPROVAL OF THE SUPREME COURT) OF THIS ARTICLE, (II) ALL CONSENTS AND APPROVALS REQUIRED BY SECTION 909 (CONSENT TO FILING), AND (III) A STATEMENT AS TO WHETHER ANY PERSONS HAVE RAISED, OR HAVE A REASONABLE BASIS TO RAISE, OBJECTIONS TO THE MERGER OR CONSOLIDATION THAT IS THE SUBJECT OF THE APPLICATION, INCLUDING A STATEMENT SETTING FORTH THE NAMES AND ADDRESSES OF SUCH PERSONS, THE NATURE OF THEIR INTEREST, AND A DESCRIPTION OF THEIR OBJECTIONS.

(C) UPON THE FILING OF THE APPLICATION, THE ATTORNEY GENERAL, IN HIS OR HER DISCRETION, MAY DIRECT THAT THE CONSTITUENT CORPORATIONS PROVIDE NOTICE TO SUCH PERSONS AS MAY BE INTERESTED, INCLUDING ANY GOVERNMENTAL BODY OR OFFICER AND ANY OTHER PERSON OR BODY THAT IS REQUIRED EITHER TO GIVE CONSENT OR BE NOTIFIED UNDER SECTION 404 (APPROVALS, NOTICES AND CONSENTS) OF THIS ARTICLE OR 909 (CONSENT TO FILING) OF THIS ARTICLE. THE CONSTITUENT CORPORATIONS SHALL PROVIDE THE ATTORNEY GENERAL WITH A CERTIFICATION THAT SUCH NOTICE HAS BEEN PROVIDED.

(D) IF ANY ASSETS OF ANY OF THE CONSTITUENT CORPORATIONS ARE HELD FOR A CHARITABLE PURPOSE OR ARE ASSETS RECEIVED FOR A SPECIFIC PURPOSE AND LEGALLY REQUIRED TO BE USED FOR A PARTICULAR PURPOSE, BUT NOT UPON A CONDITION REQUIRING RETURN, TRANSFER OR CONVEYANCE BY REASON OF THE MERGER OR CONSOLIDATION, THE ATTORNEY GENERAL MAY, IN HIS OR HER DISCRETION, DIRECT THAT SUCH ASSETS BE TRANSFERRED OR CONVEYED TO THE SURVIVING OR CONSOLIDATED CORPORATION SUBJECT TO SUCH PURPOSE OR USE.

(E) IF THE ATTORNEY GENERAL SHALL FIND THAT THE INTERESTS OF NON-CONSENTING MEMBERS ARE OR MAY BE SUBSTANTIALLY PREJUDICED BY THE PROPOSED MERGER OR CONSOLIDATION, THE ATTORNEY GENERAL MAY DISAPPROVE OF THE APPLICATION OR MAY CONDITION APPROVAL OF THE APPLICATION UPON MODIFICATION OF THE PLAN OF MERGER OR CONSOLIDATION IN ACCORDANCE WITH THIS CHAPTER AND ANY OTHER LAW OR RULE.

(F) IF IT SHALL APPEAR, TO THE SATISFACTION OF THE ATTORNEY GENERAL, THAT THE PROVISIONS OF THIS SECTION HAVE BEEN COMPLIED WITH, AND THAT THE INTERESTS OF THE CONSTITUENT CORPORATIONS AND THE PUBLIC INTEREST WILL NOT BE ADVERSELY AFFECTED BY THE MERGER OR CONSOLIDATION, THE ATTORNEY GENERAL SHALL APPROVE THE MERGER OR CONSOLIDATION UPON SUCH TERMS AND CONDITIONS AS IT MAY PRESCRIBE.

(G) THE APPROVAL OF THE ATTORNEY GENERAL SHALL BE ANNEXED TO THE CERTIFICATE OF MERGER OR CONSOLIDATION.

(H) AT ANY TIME, INCLUDING IF THE ATTORNEY GENERAL DOES NOT APPROVE THE APPLICATION, OR IF THE ATTORNEY GENERAL CONCLUDES THAT COURT REVIEW IS APPROPRIATE, THE CONSTITUENT CORPORATIONS MAY SEEK COURT APPROVAL ON NOTICE TO THE ATTORNEY GENERAL PURSUANT TO SECTION 907-A (APPLICATION FOR APPROVAL OF THE SUPREME COURT) OF THIS ARTICLE.

S 86. Paragraph (a) of section 908 of the not-for-profit corporation law is amended to read as follows:

(a) One or more domestic or foreign corporations which is, or would be if formed under this chapter, a NON-CHARITABLE CORPORATION, OR ANY CORPORATION FORMED AS A type A [or type C] corporation [under section 201 (Purposes)] PRIOR TO JULY FIRST, TWO THOUSAND FOURTEEN, may be merged or consolidated into a domestic or foreign corporation which is, or would be if formed under the laws of this state, a corporation formed under the business corporation law of this state if such merger or consolidation is not contrary to the law of the state of incorporation of any constituent corporation. With respect to such merger or consolidation, any reference in paragraph (b) of section 901 (POWER OF MERGER OR CONSOLIDATION) of this article or paragraph (b) of section 901 (POWER OF MERGER OR CONSOLIDATION) of the business corporation law to a corpo-

ration shall, unless the context otherwise requires, include both domestic and foreign corporations.

S 87. Section 909 of the not-for-profit corporation law, as amended by section 6 of part D of chapter 58 of the laws of 2006, is amended to read as follows:

S 909. Consent to filing; NOTICES.

(A) If the purposes of any constituent or consolidated corporation would require the approval or consent of any governmental body or officer or any other person or body under section 404 (Approvals, NOTICES and consents) OF THIS CHAPTER no certificate of merger or consolidation shall be filed pursuant to this article unless such approval or consent is endorsed thereon or annexed thereto. A corporation whose statement of purposes specifically includes the establishment or operation of a child day care center, as that term is defined in section three hundred ninety of the social services law, shall provide a certified copy of any certificate of merger or consolidation involving such corporation to the office of children and family services within thirty days after the filing of such merger or consolidation with the department of state.

(B) IF THE PURPOSES OF ANY CONSTITUENT OR CONSOLIDATED CORPORATION WOULD REQUIRE THE CERTIFICATE OF INCORPORATION OR ANY OTHER NOTICE TO BE DELIVERED TO ANY PERSON OR ENTITY UNDER SECTION 404 (APPROVALS, NOTICES AND CONSENTS) OF THIS CHAPTER, THE CORPORATION SHALL PROVIDE TO SUCH PERSON OR ENTITY A CERTIFIED COPY OF THE CERTIFICATE OF INCORPORATION WITHIN THIRTY DAYS AFTER THE CORPORATION RECEIVES CONFIRMATION FROM THE DEPARTMENT OF STATE THAT THE CERTIFICATE HAS BEEN ACCEPTED FOR FILING.

S 88. Paragraphs (b), (c) and (d) of section 1001 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, are amended to read as follows:

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

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

(d) If the corporation has assets to distribute or liabilities, the plan of dissolution shall contain:

(1) a description with reasonable certainty of the assets of the corporation and their fair value, and the total amount of debts and other liabilities incurred or estimated by the corporation, including the total amount of any accounting and legal fees incurred or estimated, in connection with the dissolution procedure.

(2) a statement as to whether any gifts or other assets are legally required to be used for a particular purpose.

(3) if there are assets received and held by the corporation either for a CHARITABLE purpose [specified as Type B in paragraph (b) of section 201 (Purposes)] or which are legally required to be used for a particular purpose, a statement that the assets owned by the corporation, subject to any unpaid liabilities of the corporation, shall be distributed as required by any gift instrument or to a charitable CORPORATION OR organization or organizations exempt from taxation pursuant to federal and state laws and engaged in activities substantially similar

to those of the dissolved corporation. Each such recipient organization shall be identified and the governing instrument and amendments thereto of each of the proposed recipient organizations shall be annexed to such statement, along with the MOST RECENT financial [reports] REPORT of each recipient organization [for the last three years] and a sworn affidavit from a director and officer of each recipient organization stating the purposes of the organization, and that it is currently exempt from federal income taxation.

(4) if any of the assets of the corporation are to be distributed to a recipient for a particular legally required purpose, an agreement by the recipient to apply the assets received only for such purpose shall be included.

S 89. Paragraphs (a) and (d) of section 1002 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, are amended to read as follows:

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

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

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

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

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

(d) (1) The plan of dissolution and distribution of assets shall have annexed thereto the approval of [a justice of the supreme court in the judicial district in which the office of the corporation is located] THE ATTORNEY GENERAL in the case of a [Type B, C or D] CHARITABLE corporation, and in the case of any [other] NON-CHARITABLE corporation which [holds assets] at the time of dissolution HOLDS ASSETS legally required to be used for a particular purpose[, except that no such approval shall be required with respect to the plan of dissolution of a corporation, other than a corporation incorporated pursuant to article 15 (Public cemetery corporations), which has no assets to distribute at the time of dissolution, other than a reserve not to exceed twenty-five thousand dollars for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees, and liabilities not in excess of ten thousand dollars, and which has complied with the requirements of section 1001 (Plan of dissolution and distribution of assets) and this section applicable to such a corporation].

(2) Application to the [supreme court for an order] ATTORNEY GENERAL for such approval shall be by verified petition, with the plan of dissolution and distribution of assets and certified copies of the consents prescribed by this section annexed thereto[, and upon ten days written notice to the attorney general accompanied by copies of such petition, plan and consents. In such case where approval of a justice of the supreme court is not required for a Type B, C or D corporation, a copy of such plan certified under penalties of perjury shall be filed with the attorney general within ten days after its authorization].

(3) THE ATTORNEY GENERAL MAY APPROVE THE PETITION IF THE CORPORATION HAS ADOPTED A PLAN IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 1001 (PLAN OF DISSOLUTION AND DISTRIBUTION OF ASSETS) OF THIS ARTICLE, AND ANY OTHER REQUIREMENTS IMPOSED BY LAW OR RULE. AT ANY TIME, INCLUDING IF THE ATTORNEY GENERAL DOES NOT APPROVE THE PETITION, OR THE ATTORNEY GENERAL CONCLUDES, IN HIS OR HER DISCRETION, THAT COURT REVIEW OF THE PETITION IS APPROPRIATE, THE CORPORATION MAY APPLY FOR APPROVAL TO THE SUPREME COURT IN THE JUDICIAL DISTRICT IN WHICH THE PRINCIPAL OFFICE OF THE CORPORATION IS LOCATED, OR IN WHICH THE OFFICE OF ONE OF THE DOMESTIC CONSTITUENT CORPORATIONS IS LOCATED, FOR AN ORDER DISSOLVING THE CORPORATION. APPLICATION TO THE SUPREME COURT FOR AN ORDER FOR SUCH APPROVAL SHALL BE BY VERIFIED PETITION UPON TEN DAYS WRITTEN NOTICE TO THE ATTORNEY GENERAL, AND SHALL INCLUDE ALL INFORMATION REQUIRED TO BE INCLUDED IN THE APPLICATION TO THE ATTORNEY GENERAL PURSUANT TO THIS SECTION.

S 90. Paragraphs (a) and (c) of section 1002-a of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, are amended to read as follows:

(a) Carry out the plan of dissolution and distribution of assets, pay its liabilities and distribute its assets in accordance therewith within two hundred seventy days from the date the plan of dissolution and distribution of assets shall have been (1) authorized as provided in section 1002 (AUTHORIZATION OF PLAN) of this article, (2) approved by any governmental body or officer whose approval is required pursuant to paragraph (c) of section 1002 (AUTHORIZATION OF PLAN) of this article, and (3) approved by EITHER THE ATTORNEY GENERAL OR a justice of the supreme court[, if such approval is required] pursuant to paragraph (d) of section 1002 (AUTHORIZATION OF PLAN) of this article[, or filed with the attorney general, if such filing is required pursuant to paragraph (d) of section 1002 of this article]. Evidence of the disposition of its

assets and payment of its liabilities pursuant to the plan of dissolution and distribution of assets shall be submitted by the corporation to the attorney general and any other governmental body or officer, as required under applicable laws. If the plan of dissolution and distribution of assets cannot be carried out within the prescribed time, the attorney general may upon good cause shown extend such time, or any extended period of time, by not fewer than thirty days nor more than one year;

(c) Distribute the assets of the corporation that remain after paying or adequately providing for the payment of its liabilities, in the following manner:

(1) assets received and held by the corporation either for a CHARITABLE purpose [specified as Type B in paragraph (b) of section 201 (Purposes)] or which are legally required to be used for a particular purpose, shall be distributed to one or more domestic or foreign corporations or other organizations engaged in activities substantially similar to those of the dissolved corporation pursuant to the plan of dissolution and distribution or, if applicable, as APPROVED BY THE ATTORNEY GENERAL OR ordered by the SUPREME court PURSUANT to [which such plan is submitted for approval under] section 1002 (Authorization of plan) OF THIS ARTICLE. Any disposition of assets contained in a will or other instrument, in trust or otherwise, made before or after the dissolution, to or for the benefit of any corporation so dissolved shall inure to or for the benefit of the corporation or organization acquiring such assets of the dissolved corporation as provided in this section, and so far as is necessary for that purpose the corporation or organization acquiring such disposition shall be deemed a successor to the dissolved corporation with respect to such assets; provided, however, that such disposition shall be devoted by the acquiring corporation or organization to the purposes intended by the testator, donor or grantor.

(2) assets other than those described by subparagraph one of this paragraph, if any, shall be distributed in accordance with the specifications of the plan of dissolution and distribution of assets or, to the extent that the certificate of incorporation prescribes the distributive rights of members, or of any class or classes of members, as provided in such certificate;

S 91. Paragraphs (a) and (b) of section 1003 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, are amended to read as follows:

(a) After the plan of dissolution and distribution of assets has been adopted, authorized, approved and carried out pursuant to the terms of the plan within the time period set forth pursuant to section 1002-a (Carrying out the plan of dissolution and distribution of assets), a certificate of dissolution, entitled "Certificate of dissolution of ..... (name of corporation) under section 1003 of the Not-for-Profit Corporation Law" shall be signed and, if required pursuant to subparagraph two of paragraph (b) of this section, after the attorney general has affixed thereon his or her consent to the dissolution, such certificate of dissolution shall be delivered to the department of state. It shall set forth:

(1) The name of the corporation and, if its name has been changed, the name under which it was formed.

(2) The date its certificate of incorporation was filed by the department of state.

(3) The name and address of each of its officers and directors.

(4) [The type of corporation it is at the time of dissolution] A STATEMENT AS TO WHETHER THE CORPORATION IS A CHARITABLE CORPORATION OR A NON-CHARITABLE CORPORATION.

(5) A statement as to whether or not the corporation holds assets at the time of authorization of its plan of dissolution and distribution of assets as provided in section 1002 of this article (Authorization of plan) which are legally required to be used for a particular purpose.

(6) That the corporation elects to dissolve.

(7) The manner in which the dissolution was authorized. If the dissolution of the corporation is authorized by a vote of the directors and/or members of the corporation that is less than that ordinarily required by the certificate of incorporation, the by-laws, this chapter or any other applicable law, as permitted by paragraph (a) of section 1002 (Authorization of plan) OF THIS ARTICLE, then the certificate of dissolution shall so state.

(8) A statement that prior to delivery of such certificate of dissolution to the department of state for filing, the plan of dissolution and distribution of assets has been approved by THE ATTORNEY GENERAL OR BY a justice of the supreme court, if such approval is required PURSUANT TO SECTION 1002 (AUTHORIZATION OF PLAN) OF THIS ARTICLE. A copy of the order shall be attached to the certificate of dissolution. In the case of a corporation, other than a corporation incorporated pursuant to article 15 (Public cemetery corporations), having no assets to distribute, OR HAVING NO ASSETS TO DISTRIBUTE other than a reserve not to exceed twenty-five thousand dollars for the purpose of paying ordinary and necessary expenses of winding up its affairs including attorney and accountant fees, and liabilities not in excess of ten thousand dollars at the time of dissolution, a statement that a copy of the plan of dissolution which contains the statement prescribed by paragraph (b) of section 1001 (Plan of dissolution and distribution of assets) has been duly filed with the attorney general, if required.

(b) Such certificate of dissolution shall have [indorsed] ENDORSED thereon or annexed thereto the approval of the dissolution:

(1) By a governmental body or officer, if such approval is required. A corporation whose statement of purposes specifically includes the establishment or operation of a child day care center, as that term is defined in section three hundred ninety of the social services law, shall provide a certified copy of any certificate of dissolution involving such corporation to the office of children and family services within thirty days after the filing of such dissolution with the department of state.

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

S 92. Paragraph (a) of section 1007 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

(a) At any time after the plan of dissolution and distribution of assets shall have been (1) authorized as provided in section 1002 of this article (Authorization of plan), (2) approved by any governmental body or officer whose approval is required pursuant to paragraph (c) of section 1002 of this article, and (3) approved by EITHER BY THE ATTORNEY GENERAL OR a justice of the supreme court[, if such approval is required pursuant to paragraph (d) of section 1002 of this article, or filed with the attorney general, if such filing is required] pursuant to paragraph (d) of section 1002 of this article, and prior to filing the certificate

of dissolution, the corporation may give a notice requiring all creditors and claimants, including any with unliquidated or contingent claims and any with whom the corporation has unfulfilled contracts, to present their claims in writing and in detail at a specified place and by a specified day, which shall not be less than six months after the first publication of such notice. Such notice shall be published at least once a week for two successive weeks in a newspaper of general circulation in the county in which the office of the corporation was located at the date of authorization of its plan of dissolution and distribution of assets as provided in section 1002 of this article (Authorization of plan). On or before the date of the first publication of such notice, the corporation shall mail a copy thereof, postage prepaid, to each person believed to be a creditor of or claimant against the corporation whose current name and address are known to or can with due diligence be ascertained by the corporation. The giving of such notice shall not constitute a recognition that any person is a proper creditor or claimant, and shall not revive or make valid, or operate as a recognition of the validity of, or a waiver of any defense or counterclaim in respect of any claim against the corporation, its assets, directors, officers or members, which has been barred by any statute of limitations or become invalid by any cause, or in respect of which the corporation, its directors, officers or members, has any defense or counterclaim.

S 93. Subparagraph 15 of paragraph (a) of section 1008 of the not-for-profit corporation law, as amended by chapter 434 of the laws of 2006, is amended to read as follows:

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

S 94. Subparagraph 6 of paragraph (a) of section 1012 of the not-for-profit corporation law, as amended by chapter 726 of the laws of 2005, is amended to read as follows:

(6) That[, under section 201 (Purposes),] it is a [Type ..... (Insert A, B, C or D) not-for-profit] CHARITABLE corporation OR A NON-CHARITABLE CORPORATION, AS APPLICABLE.

S 95. Sections 1203 and 1204 of the not-for-profit corporation law are amended to read as follows:

S 1203. Temporary and permanent receiver.

(a) At any stage before final judgment or final order in an action or special proceeding brought under this article, the court may appoint one or more receivers of the property of the corporation or of the property in this state of a foreign corporation against which an action has been brought under subparagraph [(a)] (4) OF PARAGRAPH (A) of section 1202 [(Appointment of a receiver of property of a domestic or foreign corporation)] OF THIS ARTICLE. Notice of an application shall be given to the attorney-general, to each governmental body or officer whose consent is required for the dissolution of such corporation, and to such other persons and in such manner as the court directs. The determination by the court of the necessity or advisability of appointing a receiver or an attorney for a receiver, and the allowance of expenses, commissions or compensation to the receiver or [his] SUCH attorney, shall be subject

to review on appeal. This provision shall not affect any other right to review on appeal.

(b) A receiver appointed by or under a final judgment or order in an action or special proceeding, or a temporary receiver who is continued by the final judgment or order, is a permanent receiver. The court may confer upon a temporary receiver the powers, and subject [him] THE TEMPORARY RECEIVER to the duties of a permanent receiver, or so much thereof as it deems proper.

S 1204. Oath and security.

[(a)] A receiver, before entering upon his OR HER duties, shall: [(1)](A) Take and subscribe an oath that he OR SHE will faithfully, honestly and impartially discharge the trust committed to him OR HER, and the oath shall be filed with the clerk of the court in which the action or special proceeding is pending.

[(2)] (B) File with the clerk of such court a bond to the people, with at least two sufficient sureties or a bond executed by any fidelity or surety company authorized by the laws of this state to transact business, in a penalty fixed by the court appointing him OR HER, conditioned for the faithful discharge of his OR HER duties as receiver. The court may at any time direct a receiver to give a new bond with new sureties and with like condition.

S 96. Subparagraphs 2 and 3 of paragraph (b) of section 1206 of the not-for-profit corporation law are amended to read as follows:

(2) To sell at public or private sale all the property vested in [him] THE PERMANENT RECEIVER, in such manner and on such terms and conditions as the court shall direct, and to make necessary transfers and conveyances thereof.

(3) To examine on oath, to be administered by [him] THE PERMANENT RECEIVER, any person concerning any matter pertaining to or affecting the receivership.

S 97. Subparagraph 1 of paragraph (a) of section 1207 of the not-for-profit corporation law, clause (C) as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(1) To give immediate notice of his OR HER appointment by publication once a week for two successive weeks in two newspapers of general circulation in the county where the office of the corporation is located or, in the case of a foreign corporation against which an action has been brought under subparagraph [(a)] (4) OF PARAGRAPH (A) of section 1202 (Appointment of receiver of property of a domestic or foreign corporation), in a newspaper of general circulation as directed by the court, requiring:

(A) All persons indebted to the corporation to render an account of all debts owing by them to the corporation and to pay the same to the receiver at a specified place and by a specified day.

(B) All persons having in their possession any property of the corporation to deliver the same to the receiver at the specified place and by the specified day.

(C) All creditors and claimants, including any with unliquidated or contingent claims and any with whom the corporation has unfulfilled contracts, to present their claims to the receiver in writing and in detail at a specified place and by a specified day, which shall not be less than six months after the first publication of such notice. Whenever a receiver is appointed in dissolution proceedings under article 10 (Non-judicial dissolution) or article 11 (Judicial dissolution), section 1007 (Notice to creditors BY CORPORATIONS INTENDING TO DISSOLVE; filing or barring claims) OF THIS CHAPTER shall apply and shall control the

giving of notice to creditors and claimants and the filing and barring of claims.

S 98. Paragraphs (a) and (e) of section 1209 of the not-for-profit corporation law are amended to read as follows:

(a) Whenever a receiver, by verified petition to the supreme court at a special term held in the judicial district in which [he] THE RECEIVER was appointed, shall show that he OR SHE has good reason to believe that any person has in his OR HER possession or under his OR HER control, or has wrongfully concealed, withheld or disposed of, any property of the corporation, or that any person can testify concerning such facts, the court, with or without notice, shall make an order requiring such person to appear before the court or a referee, at a time and place designated, and submit to an examination concerning such facts. In such order, or at any time thereafter, in its discretion, the court may enjoin and restrain such person from disposing of any property of the corporation in his OR HER possession or under his OR HER control.

(e) The testimony taken under such order shall be signed and sworn to by the person examined, and be filed in the office of the clerk of the county where the action or proceeding is pending. If it shall appear that any person is wrongfully concealing or withholding, or has in his OR HER possession or under his OR HER control, any property of the corporation, on notice to [him] SUCH PERSON, the court may make an order requiring [him] SUCH PERSON forthwith to deliver it to the receiver, subject to the further order of the court.

S 99. Paragraph (a) of section 1211 of the not-for-profit corporation law is amended to read as follows:

(a) If there remains property of the corporation after the first distribution, the receiver shall, within one year thereafter, make a final distribution among the creditors entitled thereto. Notice that such distribution will be the final distribution to creditors shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the office of the corporation is located AND POSTED PROMINENTLY AND CONTINUOUSLY FOR TWO CONSECUTIVE WEEKS ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE CORPORATION.

S 100. Section 1212 of the not-for-profit corporation law, paragraph (b) as amended by chapter 726 of the laws of 2005, is amended to read as follows:

S 1212. Disposition of moneys retained; surplus; unclaimed distributions.

(a) When any action pending at the time of final distribution shall be terminated, the receiver shall apply the moneys retained by [him] THE RECEIVER to the payment of the amount recovered, and [his] THE RECEIVER'S necessary charges and expenses incurred therein.

(b) After the final distribution to creditors and after deducting [his or her] THE RECEIVER'S charges and expenses, the receiver shall distribute any surplus in the manner prescribed in section 1002-a [(Carrying out the plan of dissolution and distribution of assets)] OF THIS CHAPTER or, if dissolution of the corporation is not involved, in such manner as the court shall order.

S 101. Sections 1213, 1214 and 1215 of the not-for-profit corporation law are amended to read as follows:

S 1213. Omission or default of receiver.

Upon notice to the attorney-general and upon such notice to creditors or others interested as the court shall direct, the court may, in the furtherance of justice, relieve a receiver from any omission or default,

on such conditions as may be imposed, and, on compliance therewith, confirm [his] THE RECEIVER'S action.

S 1214. Application by attorney-general for removal of receiver and to close receivership.

(a) Whenever he OR SHE deems it to be to the advantage of the members, creditors or other persons interested in the assets of any corporation for which a receiver has been appointed, the attorney-general may move:

(1) For an order removing the receiver and appointing another [in his stead] RECEIVER;

(2) To compel the receiver to account;

(3) For such other and additional orders as may facilitate the closing of the receivership.

S 1215. Resignation by receiver; filling any vacancy.

(a) A receiver may petition the [court] appointing [him] COURT for an order to show cause why he OR SHE should not be permitted to resign.

(b) The petition shall be accompanied by a verified account of all the assets of the corporation received by [him] THE RECEIVER, of all payments or other disposition thereof made by [him] THE RECEIVER, of the remaining assets of the corporation in respect to which [he] THE RECEIVER was appointed receiver and the situation of the same, and of all his OR HER transactions as receiver. Thereupon, the court shall grant an order directing notice to be given to the sureties on his OR HER official bond and to all persons interested in the property of the corporation to show cause, at a time and place specified, why the receiver should not be permitted to resign. Such notice shall be published once in each week for six successive weeks in one or more newspapers as the court shall direct. If it shall appear that the proceedings of the receiver in the discharge of his OR HER trust have been fair and honest and that there is no good cause to the contrary, the court shall make an order permitting such receiver to resign. Thereupon [he] THE RECEIVER shall be discharged and his OR HER powers as receiver shall cease, but he OR SHE shall remain subject to any liability incurred prior to the making of such order. The court, in its discretion, may require the expense of such proceeding to be paid by the receiver presenting the petition.

(c) Any vacancy created by resignation, removal, death or otherwise, may be filled by the court, and the property of the receivership shall be delivered to the remaining receivers or, if there are none, to the successor appointed by the court. The court may summarily enforce delivery by order in the action or special proceeding in which the receiver was appointed.

S 102. Section 1302 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

S 1302. Application to existing authorized foreign corporations.

Every foreign corporation which on the effective date of this chapter is authorized to conduct activities in this state under a certificate of authority heretofore issued to it by the secretary of state shall continue to have such authority. Such foreign corporation, its members, directors, and officers shall have the same rights, franchises, and privileges and shall be subject to the same limitations, restrictions, liabilities, and penalties as a foreign corporation authorized under this chapter, its members, directors, and officers respectively. A foreign corporation may by amendment to its certificate of authority set forth [the type of] WHETHER IT IS A CHARITABLE corporation [it is under section 201 (Purposes);] OR A NON-CHARITABLE CORPORATION and in the

absence of such amendment an authorized foreign corporation shall be a [Type B] CHARITABLE corporation. Reference in this chapter to an application for authority shall, unless the context otherwise requires, include the statement and designation and any amendment thereof required to be filed by the secretary of state under prior statutes to obtain a certificate of authority.

S 103. Subparagraph 4 of paragraph (a) of section 1304 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970 and as renumbered by chapter 590 of the laws of 1982, is amended to read as follows:

(4) That the corporation is a foreign corporation as defined in subparagraph [(a)] (7) OF PARAGRAPH (A) of section 102 (Definitions)[; the type of] OF THIS CHAPTER, WHETHER IT WOULD BE A CHARITABLE corporation [it shall be under section 201 (Purposes); a statement] OR NON-CHARITABLE CORPORATION IF FORMED IN THIS STATE; A STATEMENT of its purposes to be pursued in this state and of the activities which it proposes to conduct in this state; AND a statement that it is authorized to conduct those activities in the jurisdiction of its incorporation[; and in the case of a Type C corporation, the lawful public or quasi-public objective which each business purpose will achieve].

S 104. Paragraph (c) of section 1304 of the not-for-profit corporation law is amended, and a new paragraph (d) is added to read as follows:

(c) If the application for authority sets forth any purpose or activity for which a domestic corporation could be formed only with the consent or approval of any governmental body or officer, or other person or body under section 404 (Approvals, NOTICES and consents) OF THIS CHAPTER, such consent or approval shall be endorsed thereon or annexed thereto.

(D) IF THE APPLICATION FOR AUTHORITY SETS FORTH ANY PURPOSE OR ACTIVITY REQUIRING A DOMESTIC CORPORATION TO PROVIDE NOTICE OF THE FILING OF A CERTIFICATE OF INCORPORATION TO ANY PERSON OR ENTITY UNDER SECTION 404 (APPROVALS, NOTICES AND CONSENTS) OF THIS CHAPTER, THEN THE CORPORATION SHALL SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF THE CERTIFICATE OF AUTHORITY TO SUCH PERSON OR ENTITY WITHIN TEN BUSINESS DAYS AFTER THE CORPORATION RECEIVES CONFIRMATION FROM THE DEPARTMENT OF STATE THAT THE CERTIFICATE HAS BEEN ACCEPTED FOR FILING.

S 105. Subparagraph 1 of paragraph (a) of section 1309 of the not-for-profit corporation law, as amended by chapter 186 of the laws of 1983, is amended to read as follows:

(1) The name of the foreign corporation as it appears on the index of names of existing domestic and authorized foreign corporations of any [type or] kind in the department of state and the fictitious name the corporation has agreed to use in this state pursuant to paragraph (d) of section 1301 of this [chapter] ARTICLE.

S 106. Subparagraph 1 of paragraph (b) of section 1310 of the not-for-profit corporation law, as amended by chapter 186 of the laws of 1983, is amended to read as follows:

(1) The name of the foreign corporation as it appears on the index of names of existing domestic and authorized foreign corporations of any [type or] kind in the department of state and the fictitious name the corporation has agreed to use in this state pursuant to paragraph (d) of section 1301 of this [chapter] ARTICLE.

S 107. Subparagraph 1 of paragraph (a) of section 1311 of the not-for-profit corporation law, as amended by chapter 186 of the laws of 1983, is amended to read as follows:

(1) The name of the foreign corporation as it appears on the index of names of existing domestic and authorized foreign corporations of any [type or] kind in the department of state and the fictitious name the corporation has agreed to use in this state pursuant to paragraph (d) of section 1301 of this [chapter] ARTICLE.

S 108. Paragraphs (a) and (b) of section 1315 of the not-for-profit corporation law, subparagraph 5 of paragraph (b) as amended by chapter 847 of the laws of 1970, are amended to read as follows:

(a) An action or special proceeding against a foreign corporation may be maintained by a resident of this state or by a domestic corporation of any [type or] kind for any cause of action.

(b) Except as otherwise provided in this article, an action or special proceeding against a foreign corporation may be maintained by another foreign corporation of any [type or] kind or by a nonresident in the following cases only:

(1) Where the action is brought to recover damages for the breach of a contract made or to be performed within this state, or relating to property situated within this state at the time of the making of the contract.

(2) Where the subject matter of the litigation is situated within this state.

(3) Where the cause of action arose within this state, except where the object of the action or special proceeding is to affect the title of real property situated outside this state.

(4) Where, in any case not included in the preceding subparagraphs, a non-domiciliary would be subject to the personal jurisdiction of the courts of this state under section [302] THREE HUNDRED TWO of the civil practice law and rules.

(5) Where the defendant is a foreign corporation conducting activities or authorized to conduct activities in this state.

S 109. Paragraph (b) of section 1316 of the not-for-profit corporation law is amended to read as follows:

(b) An examination authorized by paragraph (a) may be denied to such member or other person upon his refusal to furnish to the foreign corporation or its transfer agent or registrar an affidavit that such inspection is not desired for a purpose which is in the interests of a business or object other than the activities of the foreign corporation and that such member or other person has not within five years sold or offered for sale any list or record of members of any corporation of any [type or] kind, whether or not formed under the laws of this state, or aided or abetted any person in procuring any such list or record of members for any such purpose.

S 110. Paragraph (a) of section 1321 of the not-for-profit corporation law, subparagraphs 1, 2 and 3 as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a foreign corporation conducting activities in this state which is authorized under this article, its directors, officers and members, shall be exempt from the provisions of paragraph (e) of section 1317 (Voting trust records), subparagraph [(a)] (1) OF PARAGRAPH (A) of section 1318 (Liabilities of directors and officers of foreign corporations), and subparagraph [(a)] (2) OF PARAGRAPH (A) of section 1320 (Applicability of other provisions) OF THIS ARTICLE if [when] such provision would otherwise apply:

(1) The corporation is a [Type A] NON-CHARITABLE corporation under this chapter; its principal activities are conducted outside this state;

the greater part of its property is located outside this state; and less than one third of its members are residents of this state; or

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

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

S 111. Paragraph (d) of section 1401 of the not-for-profit corporation law, as added by chapter 871 of the laws of 1977, is amended to read as follows:

(d) Type of corporation. A family or private cemetery corporation is a [type B] CHARITABLE corporation under this chapter.

S 112. Paragraph (b) of section 1402 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

A fire corporation is a [Type B] CHARITABLE corporation under this chapter.

S 113. Paragraph (c) of section 1403 of the not-for-profit corporation law is amended to read as follows:

(c) Type of corporation.

A corporation for the prevention of cruelty is a [Type B] CHARITABLE corporation under this chapter.

S 114. Paragraph (b) of section 1404 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(b) Type of corporation.

A christian association is a [Type B] CHARITABLE corporation under this chapter.

S 115. Paragraph (b) of section 1405 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

A soldiers' monument corporation is a [Type B] CHARITABLE corporation.

S 116. Paragraph (b) of section 1406 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

A medical society is a [Type A] NON-CHARITABLE corporation under this chapter.

S 117. Paragraph (b) of section 1407 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

An alumni corporation is a [Type A] NON-CHARITABLE corporation.

S 118. Paragraph (b) of section 1408 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

An historical society is a [Type B] CHARITABLE corporation under this chapter.

S 119. Paragraph (b) of section 1409 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(b) Type of corporation. An agricultural or horticultural corporation is a [Type A] NON-CHARITABLE corporation under this chapter, except that any such corporation which has received moneys from the state or has acted as agent for the state under paragraph (c) OF THIS SECTION, or has acquired or does acquire real property by condemnation is or becomes a [Type B] CHARITABLE corporation under this chapter. [If such corporation has not already filed as a Type B corporation it shall, upon such receipt of moneys or acting as such agent or such acquisition of real property by condemnation, amend its certificate to that effect.]

S 120. Paragraph (b) of section 1410 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

A board of trade or a chamber of commerce is a [Type A] NON-CHARITABLE corporation under this chapter.

S 121. Paragraph (b) of section 1411 of the not-for-profit corporation law is amended to read as follows:

(b) Type of corporation.

A local development corporation is a [Type C] CHARITABLE corporation under this chapter.

S 122. Paragraph (d) of section 1412 of the not-for-profit corporation law, as added by chapter 555 of the laws of 1993, is amended to read as follows:

(d) Type. A university faculty practice corporation is a [Type B] CHARITABLE corporation under this chapter.

S 123. Paragraph (c) of section 1505 of the not-for-profit corporation law, as added by chapter 871 of the laws of 1977, is amended to read as follows:

(c) Type of corporation. A cemetery corporation is a [Type B] CHARITABLE corporation under this chapter.

S 124. Paragraph (b) of section 1602 of the not-for-profit corporation law, as added by chapter 257 of the laws of 2011, is amended to read as follows:

(b) "land bank" shall mean a land bank established as a [type C] CHARITABLE not-for-profit corporation under this chapter and in accordance with the provisions of this article and pursuant to this article;

S 125. Paragraph (f) of section 1603 of the not-for-profit corporation law, as added by chapter 257 of the laws of 2011, is amended to read as follows:

(f) Each land bank created pursuant to this act shall be a [type C not-for-profit] CHARITABLE corporation, and shall have permanent and perpetual duration until terminated and dissolved in accordance with the provisions of section sixteen hundred thirteen of this article.

S 126. The opening paragraph of paragraph (a) of section 1607 of the not-for-profit corporation law, as added by chapter 257 of the laws of 2011, is amended to read as follows:

A land bank shall constitute a [type C] CHARITABLE not-for-profit corporation under New York law, which powers shall include all powers necessary to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to those herein otherwise granted:

S 127. Paragraph (e) of section 1611 of the not-for-profit corporation law, as added by chapter 257 of the laws of 2011, is amended to read as follows:

(e) Bonds issued by the land bank shall be issued, sold, and delivered in accordance with the terms and provisions of a resolution adopted by the board. The board may sell such bonds in such manner, either at

public or at private sale, and for such price as it may determine to be in the best interests of the land bank. The resolution issuing bonds shall be published in a newspaper of general circulation within the jurisdiction of the land bank AND POSTED PROMINENTLY AND CONTINUOUSLY ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE LAND BANK.

S 128. Section 1613 of the not-for-profit corporation law, as added by chapter 257 of the laws of 2011, is amended to read as follows:

S 1613. Dissolution of land bank.

A land bank may be dissolved as a [type C] CHARITABLE not-for-profit corporation sixty calendar days after an affirmative resolution approved by two-thirds of the membership of the board of directors. Sixty calendar days advance written notice of consideration of a resolution of dissolution shall be given to the foreclosing governmental unit or units that created the land bank, shall be published in a local newspaper of general circulation, and POSTED PROMINENTLY AND CONTINUOUSLY ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE LAND BANK, AND shall be sent certified mail to the trustee of any outstanding bonds of the land bank. Upon dissolution of the land bank all real property, personal property and other assets of the land bank shall become the assets of the foreclosing governmental unit or units that created the land bank. In the event that two or more foreclosing governmental units create a land bank in accordance with section sixteen hundred three of this article, the withdrawal of one or more foreclosing governmental units shall not result in the dissolution of the land bank unless the intergovernmental agreement so provides, and there is no foreclosing governmental unit that desires to continue the existence of the land bank.

S 129. Paragraph (h) of section 8-1.4 of the estates, powers and trusts law, as amended by chapter 43 of the laws of 2002, is amended to read as follows:

(h) The attorney general shall make rules and regulations necessary for the administration of this section, including rules and regulations as to the time for filing reports, the contents thereof, and [the] ANY manner of executing and filing them, INCLUDING BUT NOT LIMITED TO ALLOWING OR REQUIRING ANY SUBMISSION TO THE ATTORNEY GENERAL TO BE EFFECTED BY ELECTRONIC MEANS AND ELECTRONIC SIGNATURES. He or she may classify trusts, estates, corporations and other trustees as to purpose, nature of assets, duration, amount of assets, amounts to be devoted to charitable purposes, or otherwise, and may establish different rules for different classes as to time and nature of the reports required, to the ends that he or she shall receive current financial reports as to all such trusts, estates, corporations or other trustees which will enable him or her to ascertain whether they are being properly administered. The attorney general may suspend the filing of financial reports as to a particular trustee for a reasonable, specifically designated time upon written application of the trustee, signed under penalties for perjury, and filed with the attorney general and after the attorney general has filed in the register of trustees a written statement that the interests of the beneficiaries will not be prejudiced thereby and that periodic reports during the term of such suspension are not required for proper supervision by his or her office. The filing of the financial reports required by this section, or the exemption from such filing or the suspension therefrom, shall not have the effect of absolving trustees from any responsibility for accounting for property or income held by them for charitable purposes. A copy of an account or other financial report filed by a trustee in any court in this state, if the account or other financial report substantially complies with the rules and regu-

lations of the attorney general, may be filed as a financial report under this section.

S 130. The estates, powers and trusts law is amended by adding a new section 8-1.9 to read as follows:

S 8-1.9 TRUST GOVERNANCE

(A) FOR PURPOSES OF THIS SECTION:

(1) A "TRUST" MEANS A TRUST CREATED SOLELY FOR CHARITABLE PURPOSES, OR A TRUST THAT CONTINUES SOLELY FOR SUCH PURPOSES AFTER ALL NON-CHARITABLE INTERESTS HAVE TERMINATED.

(2) "CHARITABLE PURPOSE" MEANS ANY RELIGIOUS, CHARITABLE, EDUCATIONAL OR BENEVOLENT PURPOSE.

(3) "KEY EMPLOYEE" MEANS ANY PERSON WHO IS IN A POSITION TO EXERCISE SUBSTANTIAL INFLUENCE OVER THE AFFAIRS OF THE CORPORATION AS REFERENCED IN 26 U.S.C. STATUTE 4958(F)(1)(A) AND FURTHER SPECIFIED IN 26 C.F.R. STATUTE 53.4958-3(C), (D) AND (E), OR SUCCEEDING PROVISIONS.

(4) AN "AFFILIATE" OF A TRUST MEANS ANY ENTITY CONTROLLED BY, IN CONTROL OF, OR UNDER COMMON CONTROL WITH SUCH TRUST.

(5) "RELATIVE" OF AN INDIVIDUAL MEANS THE (I) SPOUSE, ANCESTORS, BROTHERS AND SISTERS (WHETHER WHOLE OR HALF BLOOD), CHILDREN (WHETHER NATURAL OR ADOPTED), GRANDCHILDREN, GREAT-GRANDCHILDREN, AND SPOUSES OF BROTHERS, SISTERS, CHILDREN, GRANDCHILDREN, AND GREAT-GRANDCHILDREN; AND (II) A DOMESTIC PARTNER AS DEFINED IN SECTION TWENTY-NINE HUNDRED NINE-TY-FOUR-A OF THE PUBLIC HEALTH LAW.

(6) "RELATED PARTY" MEANS (I) ANY TRUSTEE OR KEY EMPLOYEE OF THE TRUST OR ANY AFFILIATE OF THE TRUST; (II) ANY RELATIVE OF ANY TRUSTEE OR KEY EMPLOYEE OF THE TRUST OR ANY AFFILIATE OF THE TRUST; OR (III) AN ENTITY IN WHICH ANY INDIVIDUAL DESCRIBED IN CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH HAS A THIRTY-FIVE PERCENT OR GREATER OWNERSHIP OR BENEFI-CIAL INTEREST OR, IN THE CASE OF A PARTNERSHIP OR PROFESSIONAL CORPO-RATION, A DIRECT OWNERSHIP INTEREST IN EXCESS OF FIVE PERCENT.

(7) "INDEPENDENT TRUSTEE" MEANS A TRUSTEE WHO: (I) IS NOT, AND HAS NOT BEEN WITHIN THE LAST THREE YEARS, AN EMPLOYEE OF THE TRUST OR AN AFFIL-IATE OF THE TRUST, AND DOES NOT HAVE A RELATIVE WHO IS, OR HAS BEEN WITHIN THE LAST THREE YEARS, A KEY EMPLOYEE OF THE TRUST OR AN AFFILIATE OF THE TRUST; (II) HAS NOT RECEIVED, AND DOES NOT HAVE A RELATIVE WHO HAS RECEIVED, IN ANY OF THE LAST THREE FISCAL YEARS, MORE THAN TEN THOU-SAND DOLLARS IN DIRECT COMPENSATION FROM THE TRUST OR AN AFFILIATE OF THE TRUST (OTHER THAN REIMBURSEMENT FOR EXPENSES OR THE PAYMENT OF TRUS-TEE COMMISSIONS AS PERMITTED BY LAW AND THE GOVERNING INSTRUMENT); AND (III) IS NOT A CURRENT EMPLOYEE OF OR DOES NOT HAVE A SUBSTANTIAL FINAN-CIAL INTEREST IN, AND DOES NOT HAVE A RELATIVE WHO IS A CURRENT OFFICER OF OR HAVE A SUBSTANTIAL FINANCIAL INTEREST IN, ANY ENTITY THAT HAS MADE PAYMENTS TO, OR RECEIVED PAYMENTS FROM, THE TRUST OR AN AFFILIATE OF THE TRUST FOR PROPERTY OR SERVICES IN AN AMOUNT WHICH, IN ANY OF THE LAST THREE FISCAL YEARS, EXCEEDS THE LESSER OF TWENTY-FIVE THOUSAND DOLLARS OR TWO PERCENT OF SUCH ENTITY'S CONSOLIDATED GROSS REVENUES. FOR PURPOSES OF THIS SUBPARAGRAPH, "PAYMENT" DOES NOT INCLUDE CHARITABLE CONTRIBUTIONS.

(8) "RELATED PARTY TRANSACTION" MEANS ANY TRANSACTION, AGREEMENT OR ANY OTHER ARRANGEMENT IN WHICH A RELATED PARTY HAS A FINANCIAL INTEREST AND IN WHICH THE TRUST OR ANY AFFILIATE OF THE TRUST IS A PARTICIPANT.

(9) "INDEPENDENT AUDITOR" MEANS ANY CERTIFIED PUBLIC ACCOUNTANT PERFORMING THE AUDIT OF THE FINANCIAL STATEMENTS OF A TRUST REQUIRED BY SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW.

(B)(1) THE TRUSTEES OR A DESIGNATED AUDIT COMMITTEE CONSISTING OF ONE OR MORE INDEPENDENT TRUSTEES OF ANY TRUST REQUIRED TO FILE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT REPORT WITH THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW SHALL OVERSEE THE ACCOUNTING AND FINANCIAL REPORTING PROCESSES OF THE TRUST AND THE AUDIT OF THE TRUST'S FINANCIAL STATEMENTS. THE TRUSTEES OR DESIGNATED AUDIT COMMITTEE SHALL ANNUALLY RETAIN OR RENEW THE RETENTION OF AN INDEPENDENT AUDITOR TO CONDUCT THE AUDIT AND, UPON COMPLETION THEREOF, REVIEW THE RESULTS OF THE AUDIT AND ANY RELATED MANAGEMENT LETTER WITH THE INDEPENDENT AUDITOR.

(2) THE TRUSTEES OR A DESIGNATED AUDIT COMMITTEE CONSISTING OF ONE OR MORE INDEPENDENT TRUSTEES OF ANY TRUST REQUIRED TO FILE AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT REPORT WITH THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW AND THAT IN THE PRIOR FISCAL YEAR HAD OR IN THE CURRENT FISCAL YEAR REASONABLY EXPECTS TO HAVE ANNUAL REVENUE IN EXCESS OF ONE MILLION DOLLARS SHALL, IN ADDITION TO THOSE DUTIES SET FORTH IN SUBPARAGRAPH ONE OF THIS PARAGRAPH:

(A) REVIEW WITH THE INDEPENDENT AUDITOR THE SCOPE AND PLANNING OF THE AUDIT PRIOR TO THE AUDIT'S COMMENCEMENT;

(B) UPON COMPLETION OF THE AUDIT, REVIEW AND DISCUSS WITH THE INDEPENDENT AUDITOR: (I) ANY MATERIAL RISKS AND WEAKNESSES IN INTERNAL CONTROLS IDENTIFIED BY THE AUDITOR; (II) ANY RESTRICTIONS ON THE SCOPE OF THE AUDITOR'S ACTIVITIES OR ACCESS TO REQUESTED INFORMATION; (III) ANY SIGNIFICANT DISAGREEMENTS BETWEEN THE AUDITOR AND MANAGEMENT; AND (IV) THE ADEQUACY OF THE TRUST'S ACCOUNTING AND FINANCIAL REPORTING PROCESSES;

(C) ANNUALLY CONSIDER THE PERFORMANCE AND INDEPENDENCE OF THE INDEPENDENT AUDITOR; AND

(D) IF THE DUTIES REQUIRED BY THIS SECTION ARE PERFORMED BY AN AUDIT COMMITTEE, REPORT ON THE COMMITTEE'S ACTIVITIES TO THE TRUSTEES.

(3) THE TRUSTEES OR DESIGNATED AUDIT COMMITTEE SHALL OVERSEE THE ADOPTION, IMPLEMENTATION OF, AND COMPLIANCE WITH ANY CONFLICT OF INTEREST POLICY OR WHISTLEBLOWER POLICY ADOPTED BY THE TRUST IF THIS FUNCTION IS NOT OTHERWISE PERFORMED BY ANOTHER COMMITTEE COMPRISED SOLELY OF INDEPENDENT TRUSTEES.

(4) IF A TRUST IS UNDER THE CONTROL OF ANOTHER TRUST OR A CORPORATION, THE TRUSTEES OR DESIGNATED AUDIT COMMITTEE OF THE CONTROLLING TRUST, OR THE BOARD OR DESIGNATED AUDIT COMMITTEE OF THE BOARD OF THE CONTROLLING CORPORATION, MAY PERFORM THE DUTIES REQUIRED BY THIS PARAGRAPH.

(5) ONLY INDEPENDENT TRUSTEES MAY PARTICIPATE IN DELIBERATIONS OR VOTING RELATING TO MATTERS SET FORTH IN THIS PARAGRAPH.

(C)(1) NOTWITHSTANDING ANY PROVISION OF THE TRUST INSTRUMENT TO THE CONTRARY, NO TRUST SHALL ENTER INTO ANY RELATED PARTY TRANSACTION UNLESS THE TRANSACTION IS DETERMINED BY THE TRUSTEES TO BE FAIR, REASONABLE AND IN THE TRUST'S BEST INTEREST AT THE TIME OF SUCH DETERMINATION. ANY TRUSTEE, OFFICER OR KEY EMPLOYEE WHO HAS AN INTEREST IN A RELATED PARTY TRANSACTION SHALL DISCLOSE IN GOOD FAITH TO THE TRUSTEES, OR AN AUTHORIZED COMMITTEE THEREOF, THE MATERIAL FACTS CONCERNING SUCH INTEREST.

(2) WITH RESPECT TO ANY RELATED PARTY TRANSACTION IN WHICH A RELATED PARTY HAS A SUBSTANTIAL FINANCIAL INTEREST, THE TRUSTEES, OR AN AUTHORIZED COMMITTEE THEREOF, SHALL:

(A) PRIOR TO ENTERING INTO THE TRANSACTION, CONSIDER ALTERNATIVE TRANSACTIONS TO THE EXTENT AVAILABLE;

(B) APPROVE THE TRANSACTION BY NOT LESS THAN A MAJORITY VOTE OF THE TRUSTEES OR COMMITTEE MEMBERS PRESENT AT THE MEETING; AND

(C) CONTEMPORANEOUSLY DOCUMENT IN WRITING THE BASIS FOR THE TRUSTEES' OR AUTHORIZED COMMITTEE'S APPROVAL, INCLUDING CONSIDERATION OF ANY ALTERNATIVE TRANSACTIONS.

(3) THE TRUST INSTRUMENT, BY-LAWS OR ANY POLICY ADOPTED BY THE TRUSTEES MAY CONTAIN ADDITIONAL RESTRICTIONS ON RELATED PARTY TRANSACTIONS AND ADDITIONAL PROCEDURES NECESSARY FOR THE REVIEW AND APPROVAL OF SUCH TRANSACTIONS, OR PROVIDE THAT ANY TRANSACTION IN VIOLATION OF SUCH RESTRICTIONS SHALL BE VOID OR VOIDABLE.

(4) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN, VOID OR RESCIND ANY RELATED PARTY TRANSACTION OR PROPOSED RELATED PARTY TRANSACTION THAT VIOLATES ANY LAW OR WAS OTHERWISE NOT FAIR, REASONABLE, OR IN THE BEST INTERESTS OF THE TRUST AT THE TIME THE TRANSACTION WAS APPROVED, OR TO SEEK OTHER RELIEF, INCLUDING BUT NOT LIMITED TO DAMAGES, RESTITUTION, AND THE REMOVAL OF TRUSTEES OR OFFICERS, OR SEEK TO REQUIRE ANY PERSON OR ENTITY TO:

(A) ACCOUNT FOR ANY PROFITS MADE FROM SUCH TRANSACTION, AND PAY THEM TO THE TRUST;

(B) PAY THE TRUST THE VALUE OF THE USE OF ANY OF ITS PROPERTY OR OTHER ASSETS USED IN SUCH TRANSACTION;

(C) RETURN OR REPLACE ANY PROPERTY OR OTHER ASSETS LOST TO THE TRUST AS A RESULT OF SUCH TRANSACTION, TOGETHER WITH ANY INCOME OR APPRECIATION LOST TO THE TRUST BY REASON OF SUCH TRANSACTION, OR ACCOUNT FOR ANY PROCEEDS OF SALE OF SUCH PROPERTY, AND PAY THE PROCEEDS TO THE TRUST TOGETHER WITH INTEREST AT THE LEGAL RATE; AND

(D) PAY, IN THE CASE OF WILLFUL AND INTENTIONAL CONDUCT, AN AMOUNT UP TO DOUBLE THE AMOUNT OF ANY BENEFIT IMPROPERLY OBTAINED.

(5) THE POWERS OF THE ATTORNEY GENERAL PROVIDED IN THIS SECTION ARE IN ADDITION TO ALL OTHER POWERS THE ATTORNEY GENERAL MAY HAVE UNDER THIS CHAPTER OR ANY OTHER LAW.

(6) NO RELATED PARTY MAY PARTICIPATE IN DELIBERATIONS OR VOTING RELATING TO MATTERS SET FORTH IN THIS PARAGRAPH; PROVIDED THAT NOTHING IN THIS SECTION SHALL PROHIBIT THE TRUSTEES OR DESIGNATED AUDIT COMMITTEE FROM REQUESTING THAT A RELATED PARTY PRESENT INFORMATION CONCERNING A RELATED PARTY TRANSACTION AT A TRUSTEES OR COMMITTEE MEETING PRIOR TO THE COMMENCEMENT OF DELIBERATIONS OR VOTING RELATING TO THE RELATED PARTY TRANSACTION.

(D)(1) EXCEPT AS PROVIDED IN SUBPARAGRAPH FOUR OF THIS PARAGRAPH, EVERY TRUST SHALL ADOPT A CONFLICT OF INTEREST POLICY TO ENSURE THAT ITS TRUSTEES, OFFICERS AND KEY EMPLOYEES ACT IN THE BEST INTEREST OF THE TRUST AND ITS BENEFICIARIES AND COMPLY WITH APPLICABLE LEGAL REQUIREMENTS, INCLUDING BUT NOT LIMITED TO THE REQUIREMENTS SET FORTH IN THIS PARAGRAPH.

(2) THE CONFLICT OF INTEREST POLICY SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING PROVISIONS:

(A) A DEFINITION OF THE CIRCUMSTANCES THAT CONSTITUTE A CONFLICT OF INTEREST;

(B) PROCEDURES FOR DISCLOSING A CONFLICT OF INTEREST TO THE AUDIT COMMITTEE OR, IF THERE IS NO AUDIT COMMITTEE, TO THE TRUSTEES;

(C) A REQUIREMENT THAT THE PERSON WITH THE CONFLICT OF INTEREST NOT BE PRESENT AT OR PARTICIPATE IN ANY DELIBERATION OR VOTE ON THE MATTER GIVING RISE TO SUCH CONFLICT;

(D) A PROHIBITION AGAINST ANY ATTEMPT BY THE PERSON WITH THE CONFLICT TO INFLUENCE THE DELIBERATION OR VOTING ON THE MATTER GIVING RISE TO SUCH CONFLICT;

(E) A REQUIREMENT THAT THE EXISTENCE AND RESOLUTION OF THE CONFLICT BE DOCUMENTED IN THE TRUST'S RECORDS, INCLUDING IN THE MINUTES OF ANY MEETING AT WHICH THE CONFLICT WAS DISCUSSED OR VOTED UPON; AND

(F) PROCEDURES FOR DISCLOSING, ADDRESSING, AND DOCUMENTING RELATED PARTY TRANSACTIONS IN ACCORDANCE WITH THIS PARAGRAPH.

(3) THE CONFLICT OF INTEREST POLICY SHALL REQUIRE THAT PRIOR TO A TRUSTEE'S INITIAL APPOINTMENT, AND ANNUALLY THEREAFTER, SUCH TRUSTEE SHALL COMPLETE, SIGN AND FILE WITH THE RECORDS OF THE TRUST A WRITTEN STATEMENT IDENTIFYING ANY ENTITY OF WHICH HE OR SHE IS AN OFFICER, DIRECTOR, TRUSTEE, MEMBER, OWNER (EITHER AS A SOLE PROPRIETOR OR A PARTNER), OR EMPLOYEE AND WITH WHICH THE TRUST HAS A RELATIONSHIP, AND ANY TRANSACTION IN WHICH THE TRUST IS A PARTICIPANT AND IN WHICH THE TRUSTEE MIGHT HAVE A CONFLICTING INTEREST. THE POLICY SHALL REQUIRE THAT EACH TRUSTEE ANNUALLY RESUBMIT SUCH WRITTEN STATEMENT. THE TRUSTEES SHALL PROVIDE A COPY OF ALL COMPLETED STATEMENTS TO THE CHAIR OF THE AUDIT COMMITTEE, IF THERE IS AN AUDIT COMMITTEE.

(4) A TRUST THAT HAS ADOPTED AND POSSESSES A CONFLICT OF INTEREST POLICY PURSUANT TO FEDERAL, STATE OR LOCAL LAWS THAT IS SUBSTANTIALLY CONSISTENT WITH THE PROVISIONS OF SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE DEEMED IN COMPLIANCE WITH PROVISIONS OF THIS PARAGRAPH.

(5) NOTHING IN THIS PARAGRAPH SHALL BE INTERPRETED TO REQUIRE A TRUST TO ADOPT ANY SPECIFIC CONFLICT OF INTEREST POLICY NOT OTHERWISE REQUIRED BY THIS PARAGRAPH OR ANY OTHER LAW OR RULE, OR TO SUPERSEDE OR LIMIT ANY REQUIREMENT OR DUTY GOVERNING CONFLICTS OF INTEREST REQUIRED BY ANY OTHER LAW OR RULE.

(E)(1) EXCEPT AS PROVIDED IN SUBPARAGRAPH THREE OF THIS PARAGRAPH, EVERY TRUST THAT HAS TWENTY OR MORE EMPLOYEES AND IN THE PRIOR FISCAL YEAR HAD ANNUAL REVENUE IN EXCESS OF ONE MILLION DOLLARS SHALL ADOPT A WHISTLEBLOWER POLICY TO PROTECT FROM RETALIATION PERSONS WHO REPORT SUSPECTED IMPROPER CONDUCT. SUCH POLICY SHALL PROVIDE THAT NO OFFICER, TRUSTEE, EMPLOYEE OR VOLUNTEER OF A TRUST WHO IN GOOD FAITH REPORTS ANY ACTION OR SUSPECTED ACTION TAKEN BY OR WITHIN THE TRUST THAT IS ILLEGAL, FRAUDULENT OR IN VIOLATION OF ANY ADOPTED POLICY OF THE TRUST SHALL SUFFER INTIMIDATION, HARASSMENT, DISCRIMINATION OR OTHER RETALIATION OR, IN THE CASE OF EMPLOYEES, ADVERSE EMPLOYMENT CONSEQUENCE.

(2) THE WHISTLEBLOWER POLICY SHALL INCLUDE THE FOLLOWING PROVISIONS:

(A) PROCEDURES FOR THE REPORTING OF VIOLATIONS OR SUSPECTED VIOLATIONS OF LAWS OR TRUST POLICIES, INCLUDING PROCEDURES FOR PRESERVING THE CONFIDENTIALITY OF REPORTED INFORMATION;

(B) A REQUIREMENT THAT A TRUSTEE, OFFICER OR EMPLOYEE OF THE TRUST BE DESIGNATED TO ADMINISTER, THE WHISTLEBLOWER POLICY AND TO REPORT TO THE AUDIT COMMITTEE OR OTHER COMMITTEE OF INDEPENDENT TRUSTEES, OR TO THE TRUSTEES; AND

(C) A REQUIREMENT THAT A COPY OF THE POLICY BE DISTRIBUTED TO ALL TRUSTEES, OFFICERS, EMPLOYEES AND VOLUNTEERS, WITH INSTRUCTIONS ON HOW TO COMPLY WITH THE PROCEDURES SET FORTH IN THE POLICY.

(3) A TRUST THAT HAS ADOPTED AND POSSESSES A WHISTLEBLOWER POLICY PURSUANT TO FEDERAL, STATE OR LOCAL LAWS THAT IS SUBSTANTIALLY CONSISTENT WITH THE PROVISIONS OF SUBPARAGRAPH TWO OF THIS PARAGRAPH SHALL BE DEEMED IN COMPLIANCE WITH PROVISIONS OF THIS SECTION.

(4) NOTHING IN THIS PARAGRAPH SHALL BE INTERPRETED TO RELIEVE ANY TRUST FROM ANY ADDITIONAL REQUIREMENTS IN RELATION TO INTERNAL COMPLIANCE, RETALIATION, OR DOCUMENT RETENTION REQUIRED BY ANY OTHER LAW OR RULE.

S 131. Sections 1 and 3 of chapter 880 of the laws of 1937, relating to incorporating trustees of T.I.A.A stock, are amended and a new section 1-a is added to read as follows:

Section 1. John W. Davis, Lewis W. Douglas, Henry James, Jackson E. Reynolds and George Rublee, and their successors, and such persons as they may associate with themselves, are hereby constituted a [non-profit] NOT-FOR-PROFIT corporation by the name of trustees of T.I.A.A. stock.

S 1-A. ON OR AFTER JULY 1, 2014, THE CORPORATION MAY ELECT TO BE A NON-CHARITABLE CORPORATION, AS DEFINED IN SECTION 102 OF THE NOT-FOR-PROFIT CORPORATION LAW, BY PROVIDING WRITTEN NOTICE OF SUCH ELECTION TO THE ATTORNEY GENERAL AND CERTIFYING IN SUCH WRITTEN NOTICE THAT IT IS NOT EXEMPT FROM FEDERAL INCOME TAX, BUT RATHER IS TAXABLE AS A CORPORATION PURSUANT TO THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND DOES NOT SOLICIT OR RECEIVE CHARITABLE CONTRIBUTIONS, OR ACCEPT RECEIPT OF DONATIONS OF ASSETS, FOR CHARITABLE PURPOSES, AS DEFINED IN ARTICLE 7-A OF THE EXECUTIVE LAW AND 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW, AND REGULATIONS ADOPTED THEREUNDER. NOTWITHSTANDING THE FOREGOING, AS OF JULY 1, 2014, THE CORPORATION SHALL BE DEEMED A CHARITABLE CORPORATION FOR PURPOSES OF ARTICLES 1, 5, 6, 7, 8, 9 AND 10 OF THE NOT-FOR-PROFIT CORPORATION LAW.

S 3. For the accomplishment of any of its purposes the corporation hereby formed shall also have power to acquire property by grant, gift, purchase, lease, bequest or devise, either absolutely or in trust and without limitation as to character, amount or value, except such limitation, if any, as the legislature shall hereafter impose, and to hold and dispose of the same, and to invest, reinvest, deal with and expend the property of the corporation in such manner as the trustees shall deem best. It shall have all the powers and be subject to all restrictions which now pertain by general law to [membership] NOT-FOR-PROFIT corporations created by special law so far as the same are applicable to it and not inconsistent with the provisions of this act.

S 132. Section 1 of chapter 124 of the laws of 1952 relating to incorporating the college retirement equities fund for the benefit of the teaching profession is amended and a new section 1-a is added to read as follows:

Section 1. Laird Bell, Virgil M. Hancher, R. McAllister Lloyd, Irving S. Olds, Francis T.P. Plimpton, Henning W. Prentis, Jr., Henry M. Wriston, and their successors, and such persons as they may associate with themselves, as provided by section five hereof, are hereby constituted a [nonprofit] NOT-FOR-PROFIT corporation by the name of College Retirement Equities Fund.

S 1-A. ON OR AFTER JULY 1, 2014, THE CORPORATION MAY ELECT TO BE A NON-CHARITABLE CORPORATION, AS DEFINED IN SECTION 102 OF THE NOT-FOR-PROFIT CORPORATION LAW, BY PROVIDING WRITTEN NOTICE OF SUCH ELECTION TO THE ATTORNEY GENERAL AND CERTIFYING IN SUCH WRITTEN NOTICE THAT IT IS NOT EXEMPT FROM FEDERAL INCOME TAX, BUT RATHER IS TAXABLE AS A CORPORATION PURSUANT TO THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND DOES NOT SOLICIT OR RECEIVE CHARITABLE CONTRIBUTIONS, OR ACCEPT RECEIPT OF DONATIONS OF ASSETS, FOR CHARITABLE PURPOSES, AS DEFINED IN SECTIONS 170 OF THE EXECUTIVE LAW AND 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW, AND REGULATIONS ADOPTED THEREUNDER. NOTWITHSTANDING THE FOREGOING, AS OF JULY 1, 2014, THE CORPORATION SHALL BE DEEMED A CHARITABLE CORPORATION FOR PURPOSES OF ARTICLES 1, 5, 6, 7, 8, 9 AND 10 OF THE NOT-FOR-PROFIT CORPORATION LAW.

S 133. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

S 134. This act shall take effect July 1, 2014, provided that section seventy-three of this act shall take effect January 1, 2015; provided further that section seventy-two of this act and paragraph (b) of section 8-1.9 of the estates, powers and trusts law as added by section one hundred thirty of this act shall not be applicable until January 1, 2015 for any corporation or trust that had annual revenues of less than 10,000,000 dollars in the last fiscal year ending prior to January 1, 2014.