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

7772

2013-2014 Regular Sessions

I N A S S E M B L Y

June 4, 2013

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, the estates, powers and trusts law, the surrogate's court procedure act, the racing, pari-mutuel wagering and breeding law, the executive law, the education law, the religious corporations law, the benevolent orders law, the public authorities law, the insurance law, the private housing finance law, the banking law, the general business law, the mental hygiene law and the public lands law, in relation to reform of charitable organizations; and to repeal certain provisions of the not-for-profit corporation law and the estates, powers and trusts law relating thereto

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

Section 1. Subparagraph 6 of paragraph (a) of section 102 of the not-for-profit corporation law is amended and ten new subparagraphs 3-a, 6-a, 9-a, 19, 20, 21, 22, 23, 24 and 25 are added to read as follows:

(3-A) "CHARITABLE CORPORATION" MEANS CORPORATIONS WHOSE PURPOSES AS CONTAINED IN THE CERTIFICATE OF INCORPORATION OR SPECIAL LAW ARE EXCLUSIVELY CHARITABLE, EDUCATIONAL, RELIGIOUS, SCIENTIFIC, TESTING FOR PUBLIC SAFETY AND TO FOSTER NATIONAL OR INTERNATIONAL AMATEUR SPORTS COMPETITION OR FOR THE PREVENTION OF CRUELTY TO CHILDREN OR ANIMALS, INCLUDING WITHOUT LIMITATION, ARTS, CULTURAL, ENVIRONMENTAL, HEALTH, HUMAN SERVICES, LITERARY, PUBLIC BENEFIT, SOCIETY BENEFIT CORPORATIONS AND OTHER PUBLICLY SUPPORTED OR PRIVATE FOUNDATIONS RECOGNIZED BY THE UNITED STATES INTERNAL REVENUE SERVICE AS EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION FIVE HUNDRED ONE (C)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR ANY SUCCESSOR LAW.

(6) "Director" means any member of the governing board of a corporation, whether designated as director, trustee, manager, governor, or

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

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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 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 AT THE MOST RECENTLY HELD ELECTION OF DIRECTORS.

(9-A) "BENEFICENT CORPORATION" MEANS LAWFUL NON-BUSINESS CORPORATIONS, INCLUDING CIVIC LEAGUES, SOCIAL WELFARE ORGANIZATIONS, FRATERNAL BENEFIT SOCIETIES, BUSINESS LEAGUES, CHAMBERS OF COMMERCE, LABOR, AGRICULTURAL AND HORTICULTURAL ORGANIZATIONS, SOCIAL AND RECREATIONAL CLUBS, CEMETERY CORPORATIONS, CERTAIN CREDIT UNIONS, WAR VETERANS POSTS AND ORGANIZATIONS, PATRIOTIC AND POLITICAL ORGANIZATIONS, CERTAIN INSURANCE ORGANIZATIONS, AND CERTAIN EMPLOYEE BENEFIT ORGANIZATIONS, RECOGNIZED BY THE INTERNAL REVENUE SERVICE AS FEDERAL INCOME TAX EXEMPT UNDER OTHER SUBSECTIONS OF SECTION 501 OR UNDER SECTION 527 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, OR ANY SUCCESSOR LAW, OTHER THAN THOSE ORGANIZATIONS EXEMPT UNDER SECTION 501(C)(3) THEREOF.

(19) "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 AN AUDIT OF THE FINANCIAL STATEMENTS OF A CORPORATION REQUIRED BY SUBDIVISION ONE OF SECTION ONE HUNDRED SEVENTY-TWO-B OF THE EXECUTIVE LAW OR ENVISIONED BY SECTION FIVE HUNDRED NINE OF THIS CHAPTER.

(21) "INDEPENDENT DIRECTOR" MEANS A DIRECTOR WHO IN THE PAST THREE YEARS: (I) WAS NOT EMPLOYED BY, AND DID NOT HAVE A RELATIVE WHO WAS EMPLOYED BY, THE CORPORATION OR AN AFFILIATE OF THE CORPORATION; (II) WAS NOT EMPLOYED BY, AND DID NOT HAVE A RELATIVE WHO WAS EMPLOYED BY, ANY ENTITY THAT MADE PAYMENTS TO, OR RECEIVED PAYMENTS FROM, THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION FOR GOODS, PROPERTY OR SERVICES EXCEEDING TEN THOUSAND DOLLARS; (III) HAS NOT HAD, AND DOES NOT HAVE A RELATIVE WHO HAS HAD, A MATERIAL FINANCIAL INTEREST IN ANY ENTITY THAT MADE PAYMENTS TO, OR HAS RECEIVED PAYMENTS FROM, THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION FOR GOODS, PROPERTY OR SERVICES EQUALING THE LESSER OF TWENTY-FIVE THOUSAND DOLLARS OR TWO PERCENT OF THE CORPORATION'S TOTAL REVENUE FOR THE CORPORATION'S TAX YEAR; AND (IV) HAS NOT RECEIVED, AND DOES NOT HAVE ANY RELATIVE WHO HAS RECEIVED, ANY OTHER COMPENSATION, PAYMENT OF BENEFIT HAVING MONETARY VALUE FROM THE CORPORATION OR ANY 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 TWO HUNDRED TWO OF THIS CHAPTER. FOR PURPOSES OF THIS CHAPTER, "PAYMENT" DOES NOT INCLUDE CONTRIBUTIONS TO A NOT-FOR-PROFIT CORPORATION.

(22) "RELATIVE" OF AN INDIVIDUAL MEANS THE (I) SPOUSE, ANCESTOR, CHILDREN, GRANDCHILDREN, GREAT GRANDCHILDREN, BROTHER OR SISTER (WHETHER BY THE WHOLE- OR HALF-BLOOD) OF THE INDIVIDUAL; AND (II) THE SPOUSES OF CHILDREN, GRANDCHILDREN, GREAT GRANDCHILDREN, BROTHER OR SISTER (WHETHER BY THE WHOLE- OR HALF-BLOOD) OF THE INDIVIDUAL.

(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) AN 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.

(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 DEFINED IN SECTION 4958(F)(1)(A) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND THE REGULATIONS THEREUNDER, AND ANY SUCCESSOR LAW OR REGULATION.

S 2. 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 AND BEFORE THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH 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] TO 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 thereby be extended. For the purpose of this paragraph, the effective date of this chapter as to corporations to which this chapter is made appli-

cable 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] LAW 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] CHARITABLE 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 3. Paragraph (a) of section 104-a of the not-for-profit corporation law is REPEALED and paragraphs (b) through (s) are relettered paragraphs (a) through (r).

S 4. 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 ACCEPTANCE FOR 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] TYPOGRAPHICAL OR SIMILAR NON-MATERIAL or 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 5. 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 two new subparagraphs 10 and 11 are 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] NOT-FOR-PROFIT 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] NOT-FOR-PROFIT 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] A NOT-FOR-PROFIT 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.

(11) TO ENFORCE THE PARENS PATRIAE POWER AND ANY OTHER COMMON LAW AUTHORITY OF THE ATTORNEY GENERAL AND ANY COMMON-LAW CAUSES OF ACTION AVAILABLE TO MEMBERS, DIRECTORS, OFFICERS, CREDITORS AND OTHERS AGAINST A DOMESTIC OR FOREIGN CORPORATION AND ITS MEMBERS, DIRECTORS AND OFFICERS WHICH ARE NOT PREEMPTED BY THIS CHAPTER.

S 6. Subparagraph 1 of paragraph (b) of section 112 of the not-for-profit corporation law is amended to read as follows:

(1) If an action, it is triable by jury as a matter of right AS GUARANTEED BY ARTICLE I, SECTION 2 OF THE CONSTITUTION AND PROVIDED BY SECTION FORTY-ONE HUNDRED ONE OF THE CIVIL PRACTICE LAW AND RULES.

S 7. 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 8. Section 112 of the not-for-profit corporation law is amended by adding a new paragraph (e) to read as follows:

(E) NO PROVISIONS OF THIS CHAPTER SHALL PREEMPT WELL-PLEADED COMMON LAW OR EQUITABLE CAUSES OF ACTION OR PROCEEDINGS BROUGHT BY THE ATTORNEY GENERAL AGAINST CORPORATIONS, DIRECTORS, OFFICERS, KEY EMPLOYEES OR AGENTS, IF SUCH CAUSES OF ACTION ARE INDEPENDENT OF CAUSES OF ACTION, IF ANY, BASED ON VIOLATIONS OF THIS CHAPTER.

S 9. Section 113 of the not-for-profit corporation law is REPEALED.

S 10. 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 corporations] 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 11. 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 attorney general[, at the request of the officer or body authorized to grant such approval,] shall maintain an action or proceeding pursuant to the provisions of subparagraph one of paragraph (a) of section one hundred twelve of this chapter, OF THE EXECUTIVE LAW AND THE ESTATES, POWERS AND TRUSTS LAW OR ANY OTHER APPLICABLE LAW AGAINST THE CORPORATION, ITS DIRECTORS, OFFICERS, KEY EMPLOYEES, OR AGENTS THAT SOLICITS CONTRIBUTIONS IN VIOLATION OF THIS CHAPTER OR THOSE LAWS. 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. OTHERWISE, NO CORPORATION MAY SOLICIT CONTRIBUTIONS FOR ANY PURPOSE UNLESS AND UNTIL SUCH

CORPORATION IS IN COMPLIANCE WITH THIS SECTION AND THE APPLICABLE REGISTRATION AND REPORTING REQUIREMENTS OF ARTICLE SEVEN-A OF THE EXECUTIVE LAW AND SECTION 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW.

S 12. 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)] (10), paragraph (a) of S 102 (Definitions), may be formed under this chapter [as provided in paragraph (b)] 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 ON OR AFTER JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE EITHER A CHARITABLE CORPORATION OR A BENEFICENT CORPORATION. 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 JANUARY FIRST, TWO THOUSAND FOURTEEN AS A TYPE A CORPORATION UNDER THIS CHAPTER SHALL BE A BENEFICENT 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 BENEFICENT 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 BENEFICENT CORPORATION.

(C) A TYPE B NOT-FOR-PROFIT CORPORATION FORMED PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE DEEMED A 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 CHARITA-

BLE CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE B CORPORATION SHALL BE DEEMED TO REFER TO A CHARITABLE CORPORATION.

(D) A TYPE C OR D NOT-FOR-PROFIT CORPORATION FORMED PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN SHALL BE DEEMED A BENEFICENT CORPORATION. ANY SUBMISSION OR FILING BY SUCH CORPORATION TO ANY PERSON OR ENTITY SHALL BE DEEMED TO HAVE BEEN SUBMITTED OR FILED BY A BENEFICENT CORPORATION, AND ANY REFERENCE IN ANY SUCH FILING OR SUBMISSION REFERRING TO THE STATUS OF SUCH CORPORATION AS A TYPE C OR D CORPORATION SHALL BE DEEMED TO REFER TO A BENEFICENT CORPORATION.

S 13. 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 14. Subparagraphs 1, 2 and 3 of paragraph (a) of section 301 of the not-for-profit corporation law, subparagraph 1 as amended by section 78 of part A of chapter 58 of the laws of 2010, subparagraph 2 as amended by chapter 344 of the laws of 2004, are amended to read as follows:

(1) Shall[, unless the corporation is formed for charitable or religious purposes, or for purposes for which the approval of the commissioner of social services or the public health and health planning council is required, or is a bar association,] contain the word "corporation", "incorporated" or "limited" or an abbreviation of one of such words; or, in the case of a foreign corporation, it shall, for use in this state, add at the end of its name one of such words or an abbreviation thereof.

(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 15. 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 16. 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 17. 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 18. 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 19. 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 20. 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 BENEFICENT 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, HOWEVER, THAT THIS SUBPARAGRAPH SHALL NOT BE INTERPRETED TO REQUIRE THAT SUCH ACTIVITIES BE SET FORTH IN THE CERTIFICATE OF INCORPORATION.

(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 21. The section heading and paragraphs (a), (b), (c), (d), (e), (g), (h), (i), (t), (u), (v), and (w) of section 404 of the not-for-profit corporation law, the section heading, paragraphs (c), (d), (e), (h) and (i) as amended and paragraph (a) as added by chapter 139 of the laws of 1993, paragraph (c) as further amended by section 104 of part A of chapter 62 of the laws of 2011 and paragraphs (a), (c), (d), (e), (g), (h) and (i) as relettered by chapter 431 of the laws of 1993, paragraph (b) as amended by section 4 of part D of chapter 58 of the laws of 2006, paragraph (g) as separately amended by chapters 139 and 201 of the laws of 1993, paragraph (t) as amended by section 79 of part A of chapter 58 of the laws of 2010, paragraph (u) as amended by chapter 558 of the laws of 1999, paragraph (v) as added by chapter 598 of the laws of 2000 and as further amended by section 104 of part A of chapter 62 of the laws of 2011 and paragraph (w) as added by chapter 316 of the laws of 2005, are amended to read as follows:

[Approvals] NOTICES and consents.

(a) Every [certificate of incorporation] CORPORATION which includes among its purposes the formation of a trade or business association shall [have endorsed thereon or annexed thereto the consent of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the attorney-general IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE SECRETARY OF STATE.

(b) (1) Every [certificate of incorporation] CORPORATION which includes among its purposes the care of destitute, delinquent, abandoned, neglected or dependent children; the establishment or operation of any adult care facility, or the establishment or operation of a residential program for victims of domestic violence as defined in subdivision four of section four hundred fifty-nine-a of the social services law, or the placing-out or boarding-out of children or a home or shelter for unmarried mothers, excepting the establishment or maintenance of a hospital or facility providing health-related services as those terms are defined in article twenty-eight of the public health law and a facility for which an operating certificate is required by articles sixteen, nineteen, twenty-two and thirty-one of the mental hygiene law; or the solicitation of contributions for any such purpose or purposes, shall [have endorsed thereon or annexed thereto the approval of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the commissioner of the office of children and family services IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE or with respect to any adult care facility, SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the commissioner of health IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(2) 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 the certificate of incorporation]

SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION, each amendment thereto, and any certificate of merger, consolidation or dissolution involving such corporation to the office of children and family services within thirty days after the filing of such certificate, amendment, merger, consolidation or dissolution with the department of state. This requirement shall also apply to any foreign corporation filing an application for authority under section thirteen hundred four of this chapter, any amendments thereto, and any surrender of authority or termination of authority in this state of such corporation.

(c) Every [certificate of incorporation] CORPORATION which includes among [the] ITS purposes [of the corporation,] the establishment, maintenance and operation of a hospital service or a health service or a medical expense indemnity plan or a dental expense indemnity plan as permitted in article forty-three of the insurance law, shall [have endorsed thereon or annexed thereto the approval of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the superintendent of financial services and the commissioner of health IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(d) Every [certificate of incorporation] CORPORATION which includes a purpose for which a corporation [might] MUST be chartered by the regents of the university of the State of New York shall [have endorsed thereon or annexed thereto the consent of] APPLY TO THE REGENTS FOR A CHARTER. SUCH CORPORATIONS ARE THOSE WHICH CARRY OUT ANY OF THE ACTIVITIES FOR WHICH THE CONSENT OF THE COMMISSIONER OF EDUCATION IS REQUIRED BY PARAGRAPH (V) OF THIS SECTION. OTHERWISE A CORPORATION WHICH MAY HAVE EDUCATIONAL PURPOSES MUST SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the commissioner of education IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(e) Every [certificate of incorporation of a] cemetery corporation, except those within the exclusionary provisions of section 1503 (Cemetery corporations) shall [have endorsed thereon or annexed thereto the approval of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the cemetery board IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(g) Every [certificate of incorporation of a] corporation for prevention of cruelty to animals shall [have endorsed thereon or annexed thereto the approval of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the American Society for the Prevention of Cruelty to Animals[, or, if such approval be withheld thirty days after application therefor, a certified copy of an order of a justice of the supreme court of the judicial district in which the office of the corporation is to be located, dispensing with such approval, granted upon eight days' notice to such society] IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(h) Every [certificate of incorporation of] CORPORATION WHICH HAS AS ITS PURPOSE THE ESTABLISHMENT OF a Young Men's Christian Association shall [have endorsed thereon or annexed thereto the approval of] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO the chairman of the national board of Young Men's Christian Associations IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

(i) Every [certificate of incorporation] CORPORATION which [indicates that the proposed corporation is] HAS AS ITS PURPOSE to solicit funds for or otherwise benefit the armed forces of the United States or of any foreign country, or their auxiliaries, or of this or any other state or any territory, shall [have endorsed thereon or annexed thereto the approval of] SEND A CERTIFIED COPY, RETURN RECEIPT REQUESTED, OF ITS CERTIFICATE OF INCORPORATION TO the chief of staff IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE BY THE DEPARTMENT OF STATE.

[(t)] (S) Every certificate of incorporation which includes among its purposes and powers the establishment or maintenance of a hospital or facility providing health related services, as those terms are defined in article twenty-eight of the public health law, or the solicitation of contributions for any such purpose or two or more of such purposes, shall have endorsed thereon the approval of the public health and health planning council.

[(u)] (T) Every certificate of incorporation which includes among the purposes of the corporation, the establishment or operation of a substance abuse, substance dependence, alcohol abuse, alcoholism, or chemical abuse or dependence program, or the solicitation of contributions for any such purpose, shall have endorsed thereon or annexed thereto the consent of the commissioner of the office of alcoholism and substance abuse services to its filing by the department of state.

[(v)] (U) Every certificate of incorporation which includes among the purposes of the corporation, the establishment, maintenance and operation of a nonprofit property/casualty insurance company, pursuant to article sixty-seven of the insurance law, shall have endorsed thereon or annexed thereto the approval of the superintendent of financial services.

[(w)] (V) Every certificate of incorporation in which the name of the proposed corporation includes the terms: "school," "education," "elementary," "secondary," "kindergarten," "prekindergarten," "preschool," "nursery school," "museum," "history," "historical," "historical society," "arboretum," "library," "college," "university," "PUBLIC TELEVISION," "PUBLIC RADIO STATION," or other term restricted by section two hundred twenty-four of the education law; "conservatory," "academy," or "institute," or any abbreviation or derivative of such terms, shall have endorsed thereon or annexed thereto the consent of the commissioner of education.

S 22. Section 404 of the not-for-profit corporation law is amended by adding a new paragraph (w) to read as follows:

(W) EACH AGENCY, PUBLIC OFFICER, ORGANIZATION OR PERSON TO WHOM A NOTICE OF INCORPORATION IS TO BE SENT OR FROM WHOM A CONSENT TO INCORPORATION MUST BE OBTAINED, AS PROVIDED IN THIS SECTION, SHALL PUBLISH THE NAME AND ADDRESS OF THE REPRESENTATIVE IT HAS DESIGNATED TO RECEIVE SUCH NOTICE OR REQUEST FOR CONSENT. IF ANY AGENCY, PUBLIC OFFICER, ORGANIZATION OR PERSON TO WHOM A REQUEST FOR CONSENT HAS BEEN SENT DOES NOT CONSENT OR OBJECT, SETTING FORTH THE REASONS FOR SUCH OBJECTION, WITHIN FORTY-FIVE DAYS AFTER THE RECEIPT OF SUCH REQUEST, THE CONSENT SHALL BE CONCLUSIVELY PRESUMED TO HAVE BEEN GIVEN AND THE SECRETARY OF STATE SHALL FILE THE CERTIFICATE OF INCORPORATION.

S 23. Paragraph (b-1) of section 406 of the not-for-profit corporation law is REPEALED.

S 24. Subdivision (d) of section 406 of the not-for-profit corporation law, as added by chapter 331 of the laws of 1971, is amended to read as follows:

(d) Nothing in this section shall impair the rights and powers of the courts or the attorney-general of this state INCLUDING THE ENFORCEMENT OF THE PROVISIONS INCLUDED IN THE CERTIFICATES OF INCORPORATION TO WHICH THIS SECTION APPLIES.

S 25. 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] BENEFICENT 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 26. Paragraph (b) of section 503 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 capital certificate shall when issued state upon the face thereof:

(1) That the corporation is a [Type .....] CHARITABLE OR BENEFICENT 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) The amount of the member's capital contribution evidenced by such certificate.

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

S 27. Subparagraph 1 of paragraph (b) of section 505 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

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

S 28. 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 AUTHORIZED BY THE VOTE OF A MAJORITY OF DIRECTORS OF THE BOARD OR A COMMITTEE AUTHORIZED BY THE BOARD; PROVIDED, HOWEVER, 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 OR LEASE ITS REAL PROPERTY UNLESS AUTHORIZED BY THE VOTE OF A MAJORITY OF DIRECTORS OF THE BOARD OR A COMMITTEE AUTHORIZED BY THE BOARD; PROVIDED, HOWEVER, THAT IF SUCH PROPERTY CONSTITUTES ALL, OR SUBSTANTIALLY ALL, OF THE ASSETS OF THE CORPORATION, THEN THE VOTE OF TWO-THIRDS OF THE ENTIRE 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.

S 29. 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, and 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] EITHER (A) APPROVAL of the supreme court in the judicial district or of the county court of the county in which the corporation has its office or principal place of carrying out the purposes for which it was formed IN ACCORDANCE WITH SECTION 511 (PETITION FOR COURT APPROVAL) OR (B) APPROVAL OF THE ATTORNEY GENERAL IF AUTHORIZED UNDER SECTION 511-A (PETITION FOR ATTORNEY GENERAL APPROVAL).

S 30. The section heading, the opening paragraph and subparagraph 9 of paragraph (a) of section 511 of the not-for-profit corporation law, are amended to read as follows:

Petition for [leave of] court APPROVAL.

[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:

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 31. The not-for-profit corporation law is amended by adding a new section 511-a to read a follow:

S 511-A. PETITION FOR ATTORNEY GENERAL APPROVAL.

(A) IN LIEU OF OBTAINING COURT APPROVAL UNDER SECTION 511 (PETITION FOR COURT APPROVAL) 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 (PETITION FOR COURT APPROVAL); 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 (PETITION FOR COURT APPROVAL); 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) 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 TEN DAYS NOTICE TO THE ATTORNEY GENERAL PURSUANT TO SECTION 511 (PETITION FOR COURT APPROVAL).

S 32. Paragraph (a) of section 513 of the not-for-profit corporation law, as amended by chapter 690 of the laws of 1978, is amended to read as follows:

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

S 33. Paragraphs (b) and (c) of section 515 of the not-for-profit corporation law, paragraph (c) as amended by chapter 847 of the laws of 1970, are amended to read as follows:

(b) A corporation may pay compensation in a reasonable amount to members, directors, or officers for services rendered AS PERMITTED BY THIS CHAPTER, INCLUDING WITHOUT LIMITATION, IN ACCORDANCE WITH SUBPARAGRAPH TWELVE OF PARAGRAPH (A) OF SECTION 202 (GENERAL AND SPECIAL POWERS), AND SECTIONS 712-A (AUDIT OVERSIGHT) AND 715 (RELATED PARTY TRANSACTIONS), and may make distributions of cash or property to members upon dissolution or final liquidation as permitted by this chapter.

(c) A corporation may confer benefits upon members or nonmembers in conformity with its purposes AS PERMITTED BY THIS CHAPTER, INCLUDING WITHOUT LIMITATION, SECTIONS 712-A (AUDIT OVERSIGHT) AND 715 (RELATED PARTY TRANSACTIONS), may redeem its capital certificates or subvention certificates, and may make other distributions of cash or property to its members or former members, directors, or officers prior to dissolution or final liquidation, as authorized by this article, except when the corporation is currently insolvent or would thereby be made insolvent or rendered unable to carry on its corporate purposes, or when the fair value of the corporation's assets remaining after such conferring of benefits, or redemption, or other distribution would be insufficient to meet its liabilities.

S 34. 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 8-1.4] 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 failure 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 1303 (Violations) in the case of a foreign corporation.

S 35. The not-for-profit corporation law is amended by adding a new section 522 to read as follows:

S 522. CY-PRES AND DEVIATION.

NOTHING IN THIS CHAPTER SHALL LIMIT THE APPLICATION OF THE DOCTRINES OF CY-PRES AND DEVIATION.

S 36. 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 37. 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 TELECOMMUNICATIONS 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 GIVEN ELECTRONICALLY: (1) IF THE CORPORATION IS UNABLE TO DELIVER TWO CONSECUTIVE NOTICES TO THE MEMBER BY ELECTRONIC MAIL; OR (2) THE CORPORATION OTHERWISE BECOMES AWARE THAT NOTICE CANNOT BE DELIVERED TO THE MEMBER BY 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.

S 38. 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 THE MEMBER'S 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 39. 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 electronic transmission] AUTHORIZATION BY ELECTRONIC 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 40. 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 THE MEMBER'S 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 41. 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. 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 42. 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 43. 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 OR HER. 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 44. 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)] (D) 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.

S 45. Paragraph (c) of section 712 of the not-for-profit corporation law is REPEALED and paragraphs (d) and (e) are relettered paragraphs (c) and (d).

S 46. The not-for-profit corporation law is amended by adding two new sections 712-a and 712-b to read as follows:

S 712-A. AUDIT OVERSIGHT.

(A) EVERY 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 OR WHICH PRESENTS SUCH A REPORT AS PART OF THE ANNUAL REPORT REQUIRED BY SECTION 519 (ANNUAL REPORT OF DIRECTORS) SHALL DESIGNATE AN AUDIT COMMITTEE OF THE BOARD, CONSISTING OF AT LEAST THREE INDEPENDENT DIRECTORS, FOR THE PURPOSE OF OVERSEEING THE ACCOUNTING AND FINANCIAL REPORTING PROCESSES OF THE CORPORATION AND THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT OF THE CORPORATION'S FINANCIAL STATEMENTS. THE CORPORATION'S ENTIRE BOARD MAY CONSTITUTE THE AUDIT COMMITTEE, PROVIDED THAT ONLY INDEPENDENT DIRECTORS MAY BE PRESENT AT AND PARTICIPATE IN DELIBERATIONS AND VOTING RELATING TO AUDIT COMMITTEE MATTERS. IF A CORPORATION CONTROLS A GROUP OF CORPORATIONS, THE AUDIT COMMITTEE OF THE CONTROLLING CORPORATION MAY BE DEEMED TO BE THE AUDIT COMMITTEE FOR ONE OR MORE OF ITS CONTROLLED CORPORATIONS.

(B) THE AUDIT COMMITTEE SHALL, AT A MINIMUM:

(1) RETAIN AND EVALUATE THE INDEPENDENT AUDITOR WHO SHALL REPORT DIRECTLY TO THE AUDIT COMMITTEE;

(2) REVIEW WITH THE INDEPENDENT AUDITOR THE SCOPE AND PLANNING OF THE AUDIT;

(3) REVIEW AND DISCUSS WITH THE INDEPENDENT AUDITOR, AT A MINIMUM: (A) THE RESULTS OF ANY AUDIT, INCLUDING BUT NOT LIMITED TO: THE MANAGEMENT LETTER TO THE BOARD AND 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 AND PERFORMANCE OF THE CORPORATION'S ACCOUNTING FUNCTION;

(4) CONSIDER AT LEAST ANNUALLY THE PERFORMANCE AND INDEPENDENCE OF THE INDEPENDENT AUDITOR;

(5) OVERSEE ADOPTION, IMPLEMENTATION OF, AND COMPLIANCE WITH ANY CONFLICT OF INTEREST POLICY OR WHISTLEBLOWER POLICY ADOPTED BY THE CORPORATION PURSUANT TO SECTIONS 715-A (CONFLICT OF INTEREST POLICY) OR 715-B (WHISTLEBLOWER POLICY), IF THIS FUNCTION IS NOT OTHERWISE PERFORMED BY ANOTHER COMMITTEE OF THE BOARD COMPRISED SOLELY OF INDEPENDENT DIRECTORS; AND

(6) REPORT ITS ACTIVITIES TO THE BOARD AT LEAST ANNUALLY.

(C) THE AUDIT COMMITTEE SHALL ADOPT A CHARTER THAT SHALL STATE ITS AUTHORITY AND RESPONSIBILITIES, INCLUDING THOSE PRESCRIBED BY THIS SECTION, AND THAT SHALL STATE THE SIZE, COMPOSITION AND RULES OR PROCEDURES OF THE AUDIT COMMITTEE.

S 712-B. EXECUTIVE COMPENSATION OVERSIGHT.

(A) FOR PURPOSES OF THIS SECTION, "TOTAL COMPENSATION" MEANS: (1) ANY COMPENSATION, WHETHER PAID OR ACCRUED, BY OR ON BEHALF OF THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION, INCLUDING BUT NOT LIMITED TO SALARY, BONUS, AND DEFERRED COMPENSATION; AND (2) ANY BENEFIT HAVING MONETARY VALUE PROVIDED BY THE CORPORATION OR ON BEHALF OF THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION, INCLUDING BUT NOT LIMITED TO HOUSING ALLOWANCES, LIVING EXPENSES, PERQUISITES, FRINGE BENEFITS, EMPLOYER CONTRIBUTIONS TO DEFINED CONTRIBUTION RETIREMENT PLANS AND OTHER RETIREMENT BENEFITS.

(B) THE TOTAL COMPENSATION PAID BY A CORPORATION TO ANY EMPLOYEE OF THE CORPORATION SHALL BE FAIR, REASONABLE AND COMMENSURATE WITH SERVICES THE EMPLOYEE PROVIDES TO THE CORPORATION.

(C) NO EMPLOYEE OR OTHER INDIVIDUAL WHO MAY BENEFIT FROM COMPENSATION OR BENEFITS PROVIDED BY THE CORPORATION MAY BE PRESENT AT OR OTHERWISE PARTICIPATE IN ANY BOARD OR COMMITTEE DELIBERATION OR VOTE CONCERNING SUCH COMPENSATION OR BENEFITS.

(D) EVERY CHARITABLE CORPORATION THAT IS REQUIRED TO BE REGISTERED WITH THE ATTORNEY GENERAL UNDER ARTICLE SEVEN-A OF THE EXECUTIVE LAW OR ARTICLE EIGHT OF THE ESTATES, POWERS AND TRUSTS LAW OR BOTH AND THAT IN THE PRIOR FISCAL YEAR HAD ANNUAL REVENUES IN EXCESS OF TWO MILLION DOLLARS SHALL DESIGNATE A COMPENSATION COMMITTEE OF THE BOARD TO OVERSEE EXECUTIVE COMPENSATION PROGRAMS AND RELATED PRACTICES OF THE CORPORATION.

(1) THE COMPENSATION COMMITTEE SHALL BE COMPRISED OF AT LEAST THREE INDEPENDENT DIRECTORS.

(2) THE CORPORATION'S BOARD MAY PERFORM THE FUNCTION OF THE COMPENSATION COMMITTEE UNLESS THE BYLAWS PROVIDE OTHERWISE, PROVIDED THAT ONLY INDEPENDENT DIRECTORS MAY BE PRESENT AT AND PARTICIPATE IN ANY DELIBERATIONS OR VOTING RELATING TO COMPENSATION COMMITTEE MATTERS.

(3) IF A CORPORATION CONTROLS ONE OR MORE CORPORATIONS, THE COMPENSATION COMMITTEE OF THE CONTROLLING CORPORATION MAY BE DEEMED TO BE THE COMPENSATION COMMITTEE FOR ITS CONTROLLED CORPORATIONS.

(4) THE COMPENSATION COMMITTEE SHALL:

(A) REVIEW THE TOTAL COMPENSATION PAID TO THE CORPORATION'S OFFICERS AND ITS FIVE HIGHEST-COMPENSATED KEY EMPLOYEES; (B) AFFIRMATIVELY DETERMINE THAT THE TOTAL COMPENSATION PAID TO ANY SUCH INDIVIDUAL IS FAIR, REASONABLE AND COMMENSURATE WITH SERVICES PROVIDED TO THE CORPORATION. IN MAKING THIS DETERMINATION, THE COMPENSATION COMMITTEE SHALL AT A MINIMUM CONSIDER THE FOLLOWING FACTORS: (I) THE TOTAL COMPENSATION PROVIDED TO THE INDIVIDUAL; (II) RELEVANT BENCHMARK DATA ON THE TOTAL COMPENSATION PAID TO INDIVIDUALS SERVING IN SIMILAR POSITIONS AT CORPORATIONS OF SIMILAR SIZE, TYPE, PURPOSE, AND SCOPE; (III) THE INDIVIDUAL'S QUALIFICATIONS AND PERFORMANCE; (IV) COMPENSATION, PAYMENTS OR ANY OTHER BENEFITS PROVIDED TO THE INDIVIDUAL FROM ANY AFFILIATE OF THE CORPORATION; AND (V) THE OVERALL FINANCIAL CONDITION OF THE CORPORATION; (C) MAKE AND KEEP A CONTEMPORANEOUS WRITTEN RECORD DESCRIBING THE BASIS FOR ITS DETERMINATION, INCLUDING ITS ANALYSIS OF THE FACTORS SET FORTH IN THIS PARAGRAPH AND HOW ANY RELEVANT DATA WAS OBTAINED AND USED; (D) APPROVE BY NOT LESS THAN A MAJORITY VOTE THE TOTAL COMPENSATION PAID TO EACH SUCH INDIVIDUAL.

(5) IF, PURSUANT TO SUBPARAGRAPH TWO OF THIS PARAGRAPH, THE BOARD DOES NOT PERFORM THE FUNCTION OF THE COMPENSATION COMMITTEE, THEN: (I) THE COMPENSATION COMMITTEE SHALL RECOMMEND TO THE BOARD FOR ITS APPROVAL THE TOTAL COMPENSATION OF EACH INDIVIDUAL THAT THE COMMITTEE HAS AFFIRMATIVELY DETERMINED IS FAIR, REASONABLE, AND COMMENSURATE WITH SERVICES PROVIDED TO THE CORPORATION, AND IN CONNECTION THEREWITH, PROVIDE TO THE BOARD THE WRITTEN RECORD OF ITS DETERMINATION CREATED PURSUANT TO CLAUSE (C) OF THIS SUBPARAGRAPH; (II) UPON REVIEW OF THE RECOMMENDATIONS OF THE COMPENSATION COMMITTEE, THE BOARD SHALL APPROVE BY NOT LESS THAN A MAJORITY VOTE OF THE INDEPENDENT DIRECTORS THE TOTAL COMPENSATION OF EACH SUCH INDIVIDUAL, WITH ONLY INDEPENDENT DIRECTORS PARTICIPATING IN ANY SUCH VOTE AND ANY DISCUSSION RELATING THERETO; AND (III) THE BOARD SHALL KEEP A CONTEMPORANEOUS WRITTEN RECORD OF THE BASIS OF ITS DETERMINATION, INCLUDING AREAS OF AGREEMENT OR DISAGREEMENT WITH THE RECOMMENDATIONS OF THE COMPENSATION COMMITTEE.

(6) THE COMPENSATION COMMITTEE MAY RETAIN A COMPENSATION CONSULTANT TO ASSIST IN THE PERFORMANCE OF ITS RESPONSIBILITIES. THE COMPENSATION COMMITTEE SHALL BE DIRECTLY RESPONSIBLE FOR THE APPOINTMENT, COMPENSATION AND OVERSIGHT OF THE WORK OF SUCH CONSULTANT, AND ANY SUCH CONSULTANT SHALL REPORT DIRECTLY TO THE COMPENSATION COMMITTEE. THE COMPENSATION COMMITTEE SHALL, AMONG ITS RESPONSIBILITIES, APPROVE THE COMPENSATION PEER GROUP THAT THE COMPENSATION CONSULTANT RECOMMENDS BE USED TO DEVELOP BENCHMARK DATA

(A) PRIOR TO RETAINING ANY SUCH CONSULTANT, THE COMPENSATION COMMITTEE SHALL DETERMINE THAT THE CONSULTANT IS INDEPENDENT AND QUALIFIED TO RENDER ADVICE CONCERNING COMPENSATION; PROVIDED THAT NO CONSULTANT MAY BE DETERMINED INDEPENDENT IF SUCH CONSULTANT OR ANY FIRM THAT EMPLOYS SUCH CONSULTANT HAS (I) RECEIVED DIRECTLY OR INDIRECTLY ANY PAYMENT, FEE OR OTHER COMPENSATION FROM THE CORPORATION OR ANY AFFILIATE OF THE CORPORATION WITHIN THE PRECEDING TWO YEARS, OTHER THAN REASONABLE AMOUNTS PAID FOR COMPENSATION CONSULTING SERVICES, OR (II) ANY BUSINESS OR PERSONAL RELATIONSHIP WITH THE CORPORATION OR ANY AFFILIATE, OR ANY OF THEIR OFFICERS, DIRECTORS OR EMPLOYEES, THAT MAY INTERFERE WITH THE ABILITY OF THE CONSULTANT TO PROVIDE OBJECTIVE ADVICE TO THE COMMITTEE.

(B) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED TO (I) REQUIRE THE COMPENSATION COMMITTEE TO IMPLEMENT OR ACT CONSISTENTLY WITH ANY RECOMMENDATIONS PROVIDED BY THE COMPENSATION CONSULTANT; OR (II) AFFECT THE ABILITY OR OBLIGATION OF MEMBERS OF THE COMPENSATION COMMITTEE TO EXERCISE THEIR OWN JUDGMENT IN FULFILLMENT OF THEIR DUTIES TO THE CORPO-

RATION, INCLUDING THOSE DUTIES PRESCRIBED BY SECTION 717 (DUTIES OF DIRECTORS AND OFFICERS).

(7) THE COMPENSATION COMMITTEE SHALL ADOPT A CHARTER SETTING FORTH ITS RESPONSIBILITIES, INCLUDING AS PRESCRIBED BY THIS SECTION, AS WELL AS REQUIREMENTS CONCERNING THE SIZE, COMPOSITION AND FUNCTIONING OF THE COMPENSATION COMMITTEE.

S 47. 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, WHO MAY BE GIVEN THE TITLE CHAIR OF THE BOARD, CHAIRPERSON OF THE BOARD, CHAIRMAN OF THE BOARD, OR CHAIRWOMAN OF THE BOARD, 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.

S 48. Section 715 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, 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] NO CORPORATION SHALL ENTER INTO A RELATED PARTY TRANSACTION, UNLESS:

(1) [If the] material facts as to [such director's or officer's interest in such contract or transaction and as] THE RELATED PARTY'S INTEREST IN, AND RELATIONSHIP to [any such common directorship, officership or financial interest] THE TRANSACTION 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] ANY members OF THE CORPORATION entitled to vote [thereon, if any, and] TO APPROVE 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 author-

ized, 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)] (2) THE BOARD: (I) HAS CONSIDERED ALTERNATIVE TRANSACTIONS TO THE EXTENT AVAILABLE AND UPON REASONABLE DILIGENCE DETERMINED THAT SUCH ALTERNATIVE TRANSACTIONS WOULD NOT BE MORE ADVANTAGEOUS TO THE CORPORATION; (II) DETERMINES BY A TWO-THIRDS VOTE OF THE BOARD THAT THE RELATED PARTY TRANSACTION IS FAIR, REASONABLE AND IN THE BEST INTERESTS OF THE CORPORATION AND APPROVES SUCH TRANSACTION, AND THE RELATED PARTY WITH AN INTEREST IN THE TRANSACTION IS NOT PRESENT AT AND DOES NOT OTHERWISE PARTICIPATE IN ANY DELIBERATION OR VOTING RELATING THERETO; AND (III) CONTEMPORANEOUSLY DOCUMENTS IN WRITING THE BASIS FOR ITS DETERMINATION AND APPROVAL OF THE TRANSACTION. THIS SUBPARAGRAPH SHALL NOT APPLY TO ANY COMPENSATION REVIEWED AND APPROVED IN ACCORDANCE WITH PARAGRAPH (D) OF SECTION 712-A (AUDIT OVERSIGHT). The certificate of incorporation, BYLAWS OR CONFLICT OF INTEREST POLICY OF THE CORPORATION may contain additional restrictions on [contracts or] RELATED PARTY transactions [between a corporation] and [its directors or officers or other persons and may] ADDITIONAL PROCEDURES NECESSARY FOR THE REVIEW OR APPROVAL OF SUCH TRANSACTIONS, OR provide that [contracts or] ANY transactions in violation of such restrictions shall be void or voidable.

[(e) 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) 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.]

(B) AN OFFICER, DIRECTOR OR KEY EMPLOYEE WHO HAS AN INTEREST IN A RELATED PARTY TRANSACTION SHALL, PRIOR TO THE BOARD'S CONSIDERATION OF THE PROPOSED TRANSACTION, DISCLOSE IN GOOD FAITH TO THE CORPORATION THE MATERIAL FACTS AS TO SUCH PERSON'S INTEREST IN, AND RELATIONSHIP TO, THE TRANSACTION. THE BOARD SHALL ADOPT AND IMPLEMENT PROCEDURES FOR THE TIMELY DISCLOSURE OF SUCH FACTS TO THE BOARD.

(C) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN, VOID OR RESCIND ANY RELATED PARTY TRANSACTION OR A PROPOSED RELATED PARTY TRANSACTION THAT VIOLATES ANY LAW OR IS OTHERWISE NOT FAIR, REASONABLE, OR IN THE BEST INTERESTS OF THE CORPORATION, OR TO SEEK OTHER RELIEF, INCLUDING BUT NOT LIMITED TO DAMAGES, RESTITUTION, 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 CONDUCT, AN AMOUNT UP TO DOUBLE THE AMOUNT OF ANY BENEFIT IMPROPERLY OBTAINED.

(D) 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.

S 49. 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) 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 715 (RELATED PARTY TRANSACTIONS).

(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 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 715 (RELATED PARTY TRANSACTIONS).

(C) THE CONFLICT OF INTEREST POLICY SHALL REQUIRE THAT PRIOR TO THE INITIAL ELECTION OF ANY DIRECTOR, AND ANNUALLY THEREAFTER, THAT SUCH DIRECTOR SHALL COMPLETE, SIGN AND SUBMIT TO THE SECRETARY OF THE CORPORATION A WRITTEN STATEMENT IDENTIFYING ANY ENTITY OF WHICH SUCH DIRECTOR IS AN OFFICER, DIRECTOR, TRUSTEE, MEMBER, OWNER (EITHER AS A SOLE PROPRIETOR OR A PARTNER), OR EMPLOYEE WITH WHICH THE CORPORATION HAS, OR MIGHT BE EXPECTED TO HAVE, A RELATIONSHIP OR A TRANSACTION 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) EVERY CORPORATION REGISTERED OR REQUIRED TO BE REGISTERED PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THE EXECUTIVE LAW OR SECTION 8-1.4 OF THE ESTATES, POWERS AND TRUSTS LAW SHALL TRANSMIT A COPY OF ITS CONFLICT OF INTEREST POLICY TO THE ATTORNEY GENERAL IN THE FORM AND MANNER SPECIFIED BY THE ATTORNEY GENERAL, AND SHALL WITHIN THIRTY DAYS OF ANY MATERIAL CHANGE OF THESE POLICIES PROVIDE THE ATTORNEY GENERAL WITH THE CHANGED POLICIES.

(E) NOTHING IN THIS SECTION SHALL BE INTERPRETED TO REQUIRE A CORPORATION TO ADOPT ANY SPECIFIC CONFLICT OF INTEREST POLICY NOT OTHERWISE REQUIRED BY LAW, 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) 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) PROCEDURES FOR HANDLING AND INVESTIGATING VIOLATIONS OR SUSPECTED VIOLATIONS OF LAWS OR CORPORATE POLICIES;

(3) A REQUIREMENT THAT AN EMPLOYEE OF THE CORPORATION BE DESIGNATED TO ADMINISTER, IMPLEMENT AND OVERSEE COMPLIANCE OF 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;

(4) A REQUIREMENT THAT ALL DOCUMENTS CONCERNING INFORMATION REPORTED UNDER THE WHISTLEBLOWER POLICY AND ANY INVESTIGATION RELATING THERETO BE RETAINED BY THE CORPORATION FOR A MINIMUM PERIOD OF SIX YEARS; AND

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

(C) 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 50. 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 51. Section 717 of the not-for-profit corporation law, paragraph (a) as amended by chapter 490 of the laws of 2010, and paragraph (b) as amended by chapter 734 of the laws of 1988, is amended to read as follows:

S 717. Duty of directors and officers.

(a) Directors and officers shall discharge the duties of their respective positions in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances IN LIKE POSITIONS. [The factors set forth in subparagraph one of paragraph (e) of section 552 (Standard of conduct in managing and investing an institutional fund), if relevant, must be considered by a governing board delegating] IN THE ADMINISTRATION OF THE POWERS TO MAKE AND RETAIN INVESTMENTS PURSUANT TO SECTION 511-A (PETITION FOR ATTORNEY GENERAL APPROVAL), TO APPROPRIATE APPRECIATION PURSUANT TO SECTION 513 (ADMINIS-

TRATION OF ASSETS RECEIVED FOR SPECIFIC PURPOSES), AND TO DELEGATE investment management of institutional funds pursuant to section 514 (Delegation of investment management) [For purposes of this paragraph, the term institutional fund is defined in section 551 (Definitions).], A GOVERNING BOARD SHALL CONSIDER AMONG OTHER RELEVANT CONSIDERATIONS THE LONG AND SHORT TERM NEEDS OF THE CORPORATION IN CARRYING OUT ITS PURPOSES, ITS PRESENT AND ANTICIPATED FINANCIAL REQUIREMENTS, EXPECTED TOTAL RETURN ON ITS INVESTMENTS, PRICE LEVEL TRENDS, AND GENERAL ECONOMIC CONDITIONS.

(b) In discharging their duties, directors and officers, when acting in good faith, may rely on information, opinions, reports or statements including financial statements and other financial data, in each case prepared or presented by: (1) one or more officers or employees of the corporation, whom the director believes to be reliable and competent in the matters presented, (2) counsel, public accountants or other persons as to matters which the directors or officers believe to be within such person's professional or expert competence or (3) a committee of the board upon which they do not serve, duly designated in accordance with a provision of the certificate of incorporation or the bylaws, as to matters within its designated authority, which committee the directors or officers believe to merit confidence, so long as in so relying they shall be acting in good faith and with that degree of care specified in paragraph (a) of this section, BUT IF THE DIRECTOR OR OFFICER HAS KNOWLEDGE CONCERNING THE MATTER IN QUESTION REPORTED BY THE COMMITTEE THAT WOULD CAUSE SUCH RELIANCE TO BE UNWARRANTED, THE DIRECTOR OR OFFICER SHALL NOT BE CONSIDERED TO BE ACTING IN GOOD FAITH. Persons shall not be considered to be acting in good faith if they have knowledge concerning the matter in question that would cause such reliance to be unwarranted. Persons who so perform their duties shall have no liability by reason of being or having been directors or officers of the corporation.

(C) IN TAKING ACTION, INCLUDING, WITHOUT LIMITATION, ACTION WHICH MAY INVOLVE OR RELATE TO A CHANGE OR POTENTIAL CHANGE IN THE CONTROL OF CORPORATION, A DIRECTOR SHALL BE ENTITLED TO CONSIDER, WITHOUT LIMITATION, (1) BOTH THE LONG-TERM AND THE SHORT-TERM INTERESTS OF THE CORPORATION AND ITS MEMBERS AND (2) THE EFFECTS THAT THE CORPORATION'S ACTION MAY HAVE IN THE SHORT-TERM OR IN THE LONG-TERM UPON ANY OF THE FOLLOWING: (A) THE PROSPECTS FOR POTENTIAL GROWTH, DEVELOPMENT, PRODUCTIVITY AND FINANCIAL STABILITY OF THE CORPORATION; (B) THE CORPORATION'S CURRENT EMPLOYEES; (C) THE CORPORATION'S RETIRED EMPLOYEES AND OTHER BENEFICIARIES RECEIVING OR ENTITLED TO RECEIVE RETIREMENT, WELFARE OR SIMILAR BENEFITS FROM OR PURSUANT TO ANY PLAN SPONSORED, OR AGREEMENT ENTERED INTO, BY THE CORPORATION; (D) THE BENEFICIARIES OR RECIPIENTS OF THE CORPORATION'S SERVICES; (E) THE CORPORATION'S CREDITORS; (F) THE ABILITY OF THE CORPORATION TO PROVIDE, AS A GOING CONCERN, BENEFITS, GOODS, SERVICES, EMPLOYMENT OPPORTUNITIES AND EMPLOYMENT BENEFITS AND OTHERWISE TO CONTRIBUTE TO THE COMMUNITIES IN WHICH IT CONDUCTS ACTIVITIES; AND (G) THE ACCOMPLISHMENT OF THE CORPORATION'S PURPOSES AS STATED IN THE CERTIFICATE OF INCORPORATION. NOTHING IN THIS PARAGRAPH SHALL CREATE ANY DUTIES OWED BY ANY DIRECTOR TO ANY PERSON OR ENTITY TO CONSIDER OR AFFORD ANY PARTICULAR WEIGHT TO ANY OF THE FOREGOING OR ABROGATE ANY DUTY OF THE DIRECTORS, EITHER STATUTORY OR RECOGNIZED BY COMMON LAW OR COURT DECISIONS. FOR PURPOSES OF THIS PARAGRAPH, "CONTROL" SHALL MEAN THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE MANAGEMENT AND POLICIES OF THE CORPORATION, WHETHER THROUGH MEMBERSHIP OR OTHERWISE.

S 52. 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] CURRENT 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] CURRENT 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 53. 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 54. 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 55. Paragraph (c) of section 723 of the not-for-profit corporation law, as amended by chapter 368 of the laws of 1987, is amended to read as follows:

(c) Expenses incurred in defending a civil or criminal action or proceeding may be paid by the corporation in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such director or officer [to repay] SUFFICIENT TO ENSURE THE REPAYMENT OF such amount as, and to the extent, required by paragraph (a) of section 725.

S 56. Paragraph (b) 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:

(b) The application shall be made in such manner and form as may be required by the applicable rules of court or, in the absence thereof, by direction of a court to which it is made. Such application shall be upon notice to the corporation AND THE ATTORNEY GENERAL. The court may also direct that notice be given at the expense of the corporation to the members and such other persons as it may designate in such manner as it may require.

S 57. 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 58. 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, CONSENTS, 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. IF 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 A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO A GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR ENTITY UNDER SECTION 404 (NOTICES AND CONSENTS), OR IF THE AMENDMENT CHANGES THE NAME OF A CORPORATION WHOSE INCORPORATOR WAS REQUIRED TO DELIVER A CERTIFIED COPY OF ITS CERTIFICATE OF INCORPORATION TO A GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR ENTITY UNDER SECTION 404 (NOTICES AND CONSENTS), A CERTIFIED COPY OF THE CERTIFICATE OF AMENDMENT SHALL BE SENT BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE GOVERNMENT BODY OR OFFICER OR OTHER PERSON OR ENTITY IMMEDIATELY AFTER THE FILING OF SUCH CERTIFICATE WITH THE DEPARTMENT OF STATE.

(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 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.

S 59. Section 907 of the not-for-profit corporation law is amended to read as follows:

S 907. Approval by the supreme court OR THE 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) 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).

[(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 60. 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) 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 A 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 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).

(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 61. 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), (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 (NOTICES AND CONSENTS) OR SECTION 909 (CONSENT TO FILING). 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) 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).

S 62. Paragraphs (a) and (f) of section 908 of the not-for-profit corporation law are amended to read as follows:

(a) One or more domestic or foreign corporations which is, or would be if formed under this chapter, BENEFICENT CORPORATION, OR ANY CORPORATION FORMED AS a type A or type C corporation [under section 201 (Purposes)] PRIOR TO JANUARY 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 corporation shall, unless the context otherwise requires, include both domestic and foreign corporations.

(f) Where any constituent corporation is, or would be if formed under this chapter, a [Type C] CHARITABLE corporation [under section 201 (Purposes)], no certificate shall be filed pursuant to this section until 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 section 907 (Approval by the supreme court).

S 63. 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 AND NOTICES.

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) 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] SEND BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, 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. IF THE PURPOSES OF ANY CONSTITUENT OR CONSOLIDATED CORPORATION WOULD REQUIRE NOTICE TO ANY GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR ENTITY UNDER SECTION 404 (NOTICES AND CONSENTS), A CERTIFIED COPY OF THE CERTIFICATE OF MERGER OR CONSOLIDATION SHALL BE SENT, CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE GOVERNMENTAL BODY OR OFFICER OR ANY OTHER PERSON OR ENTITY IMMEDIATELY AFTER THE FILING OF SUCH MERGER OR CONSOLIDATION BY THE DEPARTMENT OF STATE.

S 64. 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 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 CORPORATION OR BENEFICENT CORPORATION 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 OR A BENEFICENT CORPORATION 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 financial reports 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 65. Paragraphs (a), (c) 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] corporation, other than a corporation incorporated pursuant to article 15 (Public cemetery corporations), and has no assets to distribute, OR 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.

(c) [Whenever] EXCEPT IN THE CASE OF A CORPORATION WITH NO ASSETS TO DISTRIBUTE OR WITH NO ASSETS NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS AND LIABILITIES NOT IN EXCESS OF TEN THOUSAND DOLLARS, WHENEVER a statute creating, or authorizing the formation of, a corporation requires approval by a governmental body or officer for the formation of such corporation, dissolution shall not be authorized without the approval of such body or officer.

(d) (1) The plan of dissolution and distribution of assets shall have annexed thereto the approval of THE ATTORNEY GENERAL OR a justice of the supreme court in the judicial district in which the office of the corporation is located in the case of a Type B, C or D corporation, and in the case of any other corporation which holds assets at the time of dissolution 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, OR 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, 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 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. 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. 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 UPON TEN DAYS WRITTEN NOTICE TO THE ATTORNEY GENERAL.

(3) Application to the supreme court for an order 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.

(4) In such case where approval of a justice of the supreme court OR THE ATTORNEY GENERAL 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.

S 66. 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, is 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 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 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. 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 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] CHARITABLE

corporations, BENEFICENT 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 ordered by the court to which such plan is submitted for approval under section 1002 (Authorization of plan). 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 67. 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.

(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), 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 EITHER THE ATTORNEY GENERAL OR a justice of the supreme court, if such approval is required. 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 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 68. 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 OR POSTING ON A WEBSITE 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 69. 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 CORPORATION OR A BENEFICENT CORPORATION 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] CHARITABLE corporations, BENEFICENT 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 70. Paragraph (a) of section 1010 of the not-for-profit corporation law is amended to read as follows:

[(a)] At any time prior to the filing of a certificate of dissolution by the department of state, a corporation may revoke the action taken to dissolve the corporation in the following manner:

(1) If there are members entitled to vote thereon:

(A) Unless the certificate of incorporation dispenses with dissolution action by the board, the board shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked and directing submission of the proposed revocation to a vote of the members entitled to vote thereon.

(B) Revocation of the voluntary dissolution proceedings shall be authorized by two-thirds vote as provided in paragraph (c) of section 613 (Vote of members).

(2) If there are no members entitled to vote thereon, revocation of the voluntary dissolution proceedings shall be authorized by the vote of a majority of the directors then in office.

(3) If approval of the dissolution of a corporation by a governmental body or officer is required, as provided in paragraph (c) of section 1002 (Authorization of plan), and such approval has been given, revocation of the voluntary dissolution proceedings shall not be authorized without approval thereof by such body or officer.

S 71. 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)] CHARITABLE OR BENEFICENT not-for-profit corporation.

S 72. 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 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) OF THIS ARTICLE EITHER, AS DIRECTED BY THE COURT, in a newspaper of general circulation [as directed by the court,] OR POSTED PROMINENTLY AND CONTINUOUSLY FOR TWO SUCCESSIVE WEEKS ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE CORPORATION OR 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) shall apply and shall control the giving of notice to creditors and claimants and the filing and barring of claims.

S 73. 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 OR POSTED PROMINENTLY AND CONTINUOUSLY FOR TWO CONSECUTIVE WEEKS ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE CORPORATION.

S 74. Paragraph (b) of section 1215 of the not-for-profit corporation law is amended to read as follows:

(b) The petition shall be accompanied by a verified account of all the assets of the corporation received by him, of all payments or other disposition thereof made by him, of the remaining assets of the corporation in respect to which he was appointed receiver and the situation of the same, and of all his transactions as receiver. Thereupon, the court shall grant an order directing notice to be given to the sureties on his 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 EITHER, AS DIRECTED BY THE COURT, be published once in each week for six successive weeks in one or more newspapers [as the court shall direct] OR POSTED PROMINENTLY AND CONTINUOUSLY FOR SIX SUCCESSIVE WEEKS ON THE HOMEPAGE OF ANY WEBSITE MAINTAINED BY THE CORPORATION. If it shall appear that the proceedings of the receiver in the discharge of his 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 shall be discharged and his powers as receiver shall cease, but he 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.

S 75. Subparagraph 3 of paragraph (a) of section 1218 of the not-for-profit corporation law is amended to read as follows:

(3) The order directing service of the summons shall require the publication thereof EITHER in a newspaper published in the state of New York in the English language at least once a week for four successive weeks, OR POSTED PROMINENTLY AND CONTINUOUSLY FOR FOUR SUCCESSIVE WEEKS ON ANY APPROPRIATE WEBSITE, and shall also require the mailing on or

before the date of the first publication of a copy of the summons, complaint and order to the corporation at its last known principal or head office in the state or country of its incorporation.

S 76. 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 BENEFICENT 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 77. 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 A BENEFICENT 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 78. Paragraph (c) of section 1304 of the not-for-profit corporation law is amended 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), such consent or approval shall be endorsed thereon or annexed thereto. 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 GOVERNMENT BODY OR OFFICER OR OTHER ENTITY UNDER SECTION 404 (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 IMMEDIATELY AFTER FILING THE CERTIFICATE OF AUTHORITY BY THE DEPARTMENT OF STATE.

S 79. 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.

S 80. 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.

S 81. 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.

S 82. 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 83. 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 84. 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) if when such provision would otherwise apply:

(1) The corporation is a [Type A] BENEFICENT 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 85. 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 86. 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 87. 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 88. 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 89. 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 90. 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] BENEFICENT corporation under this chapter.

S 91. 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] BENEFICENT corporation.

S 92. 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 93. 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] BENEFICENT 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 94. 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] BENEFICENT corporation under this chapter.

S 95. 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 96. 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 97. 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 98. 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 not-for-profit] CHARITABLE corporation under this chapter and in accordance with the provisions of this article and pursuant to this article;

S 99. 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 100. 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 not-for-profit] CHARITABLE 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 101. 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 102. 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 not-for-profit] CHARITABLE 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] 1603 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 103. 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 regulations of the attorney general, may be filed as a financial report under this section.

S 104. Paragraph (b-1) of section 8-1.8 of the estates, powers and trusts law is REPEALED.

S 105. 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 HAS RESPONSIBILITIES, POWERS OR INFLUENCE OVER THE TRUST SIMILAR TO THOSE OF AN OFFICER OF A NOT-FOR-PROFIT CORPORATION, OR IS OTHERWISE IN A POSITION TO EXERCISE SUBSTANTIAL INFLUENCE OVER THE AFFAIRS OF THE TRUST, AS DEFINED IN SECTION 4958(F)(1)(A) OF THE INTERNAL REVENUE CODE OF 1986 AS AMENDED, AND THE REGULATIONS THEREUNDER, AND ANY SUCCESSOR LAW OR REGULATION.

(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, ANCESTOR, CHILDREN, GRANDCHILDREN, GREAT GRANDCHILDREN, BROTHER OR SISTER (WHETHER BY THE WHOLE- OR HALF-BLOOD) OF THE INDIVIDUAL; AND (II) THE SPOUSES OF CHILDREN, GRANDCHILDREN, GREAT GRANDCHILDREN, BROTHER, OR SISTER (WHETHER BY THE WHOLE- OR HALF-BLOOD) OF THE INDIVIDUAL.

(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 BENEFICIAL INTEREST.

(7) "INDEPENDENT TRUSTEE" MEANS A TRUSTEE WHO IN THE PAST THREE YEARS: (I) WAS NOT EMPLOYED BY, AND DID NOT HAVE A RELATIVE WHO WAS EMPLOYED BY, THE TRUST OR AN AFFILIATE OF THE TRUST; (II) WAS NOT EMPLOYED BY, AND DOES NOT HAVE A RELATIVE WHO WAS EMPLOYED BY, ANY ENTITY THAT MADE PAYMENTS TO, OR RECEIVED PAYMENTS FROM, THE TRUST OR ANY AFFILIATE OF THE TRUST FOR GOODS, PROPERTY OR SERVICES EXCEEDING TEN THOUSAND DOLLARS; (III) HAS NOT HAD, AND DOES NOT HAVE A RELATIVE WHO HAS HAD, A MATERIAL FINANCIAL INTEREST IN ANY ENTITY THAT MADE PAYMENTS TO, OR RECEIVED PAYMENTS FROM, THE TRUST OR ANY AFFILIATE OF THE TRUST FOR GOODS, PROPERTY OR SERVICES EXCEEDING TEN THOUSAND DOLLARS; AND (IV) HAS

NOT RECEIVED, AND DOES NOT HAVE ANY RELATIVE WHO HAS RECEIVED, ANY OTHER COMPENSATION, PAYMENT OR BENEFIT HAVING MONETARY VALUE FROM THE TRUST OR ANY AFFILIATE OF THE TRUST, OTHER THAN REIMBURSEMENT FOR EXPENSES OR THE PAYMENT OF TRUSTEE COMMISSIONS OR OTHER TRUSTEE COMPENSATION AS PERMITTED BY LAW AND THE GOVERNING INSTRUMENT.

(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) EVERY 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 THIS CHAPTER SHALL DESIGNATE AN AUDIT COMMITTEE, CONSISTING OF ONE OR MORE INDEPENDENT TRUSTEES, FOR THE PURPOSE OF OVERSEEING THE ACCOUNTING AND FINANCIAL REPORTING PROCESSES OF THE TRUST AND THE INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT'S AUDIT OF THE TRUST'S FINANCIAL STATEMENTS. AN AUDIT COMMITTEE THAT IS NOT MADE UP OF ALL TRUSTEES SHALL BE OVERSEEN BY AND BE RESPONSIBLE TO THE TRUSTEES. IF A TRUST REQUIRED TO HAVE AN AUDIT COMMITTEE PURSUANT TO THIS PARAGRAPH IS UNDER THE CONTROL OF ANOTHER TRUST OR CORPORATION, THE AUDIT COMMITTEE FUNCTION MAY BE CONDUCTED BY THE TRUSTEES OR THE BOARD OF DIRECTORS OF THE CONTROLLING TRUST OR CORPORATION.

(2) THE AUDIT COMMITTEE SHALL, AT A MINIMUM:

(I) RETAIN AND EVALUATE THE INDEPENDENT AUDITOR, WHICH SHALL REPORT DIRECTLY TO THE AUDIT COMMITTEE;

(II) REVIEW WITH THE INDEPENDENT AUDITOR THE SCOPE AND PLANNING OF THE AUDIT;

(III) REVIEW AND DISCUSS WITH THE INDEPENDENT AUDITOR, AT A MINIMUM: (A) THE RESULTS OF ANY AUDIT, INCLUDING BUT NOT LIMITED TO: THE MANAGEMENT LETTER TO THE TRUST AND 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 AND PERFORMANCE OF THE TRUST'S ACCOUNTING FUNCTION.

(IV) CONSIDER AT LEAST ANNUALLY THE PERFORMANCE AND INDEPENDENCE OF THE INDEPENDENT AUDITOR;

(V) OVERSEE ADOPTION, IMPLEMENTATION OF AND COMPLIANCE WITH ANY CONFLICT OF INTEREST POLICY ADOPTED BY THE TRUST PURSUANT TO PARAGRAPH (F) OF THIS SECTION, AND IF APPLICABLE, ANY WHISTLEBLOWER POLICY, IF THIS FUNCTION IS NOT OTHERWISE PERFORMED BY ANOTHER COMMITTEE COMPRISED SOLELY OF INDEPENDENT TRUSTEES; AND

(VI) REPORT ITS ACTIVITIES TO THE TRUSTEES AT LEAST ANNUALLY.

(3) THE AUDIT COMMITTEE SHALL ADOPT A CHARTER THAT SHALL STATE ITS AUTHORITY AND RESPONSIBILITIES, INCLUDING THOSE PRESCRIBED BY THIS PARAGRAPH, AND THAT SHALL STATE THE SIZE, COMPOSITION AND FUNCTIONING OF THE AUDIT COMMITTEE.

(C)(1) FOR PURPOSES OF THIS PARAGRAPH, "TOTAL COMPENSATION" MEANS (1) ANY COMPENSATION, WHETHER PAID OR ACCRUED, BY OR ON BEHALF OF THE TRUST OR ANY AFFILIATE OF THE TRUST, INCLUDING BUT NOT LIMITED TO SALARY, BONUS, AND DEFERRED COMPENSATION, AND (2) ANY BENEFIT HAVING MONETARY VALUE PROVIDED BY THE TRUST OR ON BEHALF OF THE TRUST OR ANY AFFILIATE OF THE TRUST, INCLUDING BUT NOT LIMITED TO HOUSING ALLOWANCES, LIVING

EXPENSES, PERQUISITES, FRINGE BENEFITS, EMPLOYER CONTRIBUTIONS TO DEFINED CONTRIBUTION RETIREMENT PLANS AND OTHER RETIREMENT BENEFITS.

(2) THE TOTAL COMPENSATION PAID BY A TRUST TO ANY EMPLOYEE OF THE TRUST SHALL BE FAIR, REASONABLE AND COMMENSURATE WITH SERVICES THE EMPLOYEE PROVIDES TO THE TRUST.

(3) NO EMPLOYEE OR OTHER INDIVIDUAL WHO MAY BENEFIT FROM COMPENSATION OR BENEFITS PROVIDED BY THE TRUST MAY BE PRESENT AT OR OTHERWISE PARTICIPATE IN TRUSTEE OR COMMITTEE DELIBERATION OR VOTE CONCERNING SUCH COMPENSATION OR BENEFITS.

(4) EVERY TRUST THAT IS REQUIRED TO BE REGISTERED WITH THE ATTORNEY GENERAL UNDER ARTICLE SEVEN-A OF THE EXECUTIVE LAW AND THIS CHAPTER AND THAT IN THE PRIOR FISCAL YEAR HAD ANNUAL REVENUES IN EXCESS OF TWO MILLION DOLLARS SHALL DESIGNATE A COMPENSATION COMMITTEE OF THE TRUSTEES TO OVERSEE EXECUTIVE COMPENSATION PROGRAMS AND RELATED PRACTICES OF THE TRUST. (I) THE COMPENSATION COMMITTEE SHALL BE COMPRISED OF ONE OR MORE INDEPENDENT TRUSTEES. IF A TRUST CONTROLS ONE OR MORE TRUSTS OR CORPORATIONS, THE COMPENSATION COMMITTEE OF THE CONTROLLING TRUST MAY BE DEEMED TO BE THE COMPENSATION COMMITTEE FOR ITS CONTROLLED ENTITIES. (II) THE COMPENSATION COMMITTEE SHALL:

(A) REVIEW THE TOTAL COMPENSATION PAID TO THE TRUST'S OFFICERS AND ITS FIVE HIGHEST-COMPENSATED KEY EMPLOYEES. (B) AFFIRMATIVELY DETERMINE THAT THE TOTAL COMPENSATION PAID TO ANY SUCH INDIVIDUAL IS FAIR, REASONABLE AND COMMENSURATE WITH SERVICES PROVIDED TO THE TRUST. IN MAKING THIS DETERMINATION, THE COMPENSATION COMMITTEE SHALL AT A MINIMUM CONSIDER THE FOLLOWING FACTORS: 1. THE TOTAL COMPENSATION PROVIDED TO THE INDIVIDUAL; 2. RELEVANT BENCHMARK DATA ON THE TOTAL COMPENSATION PAID TO INDIVIDUALS SERVING IN SIMILAR POSITIONS AT TRUSTS OR CORPORATIONS OF SIMILAR SIZE, TYPE, PURPOSE, AND SCOPE; 3. THE INDIVIDUAL'S QUALIFICATIONS AND PERFORMANCE; 4. COMPENSATION, PAYMENTS OR ANY OTHER BENEFITS PROVIDED TO THE INDIVIDUAL FROM ANY AFFILIATE OF THE TRUST; AND 5. THE OVERALL FINANCIAL CONDITION OF THE TRUST. (C) MAKE AND KEEP A CONTEMPORANEOUS WRITTEN RECORD DESCRIBING THE BASIS FOR ITS DETERMINATION, INCLUDING ITS ANALYSIS OF THE FACTORS SET FORTH IN THIS PARAGRAPH AND HOW ANY RELEVANT DATA WAS OBTAINED AND USED. (D) APPROVE BY NOT LESS THAN A MAJORITY VOTE THE TOTAL COMPENSATION PAID TO EACH SUCH INDIVIDUAL.

(D) IF THE COMPENSATION COMMITTEE IS COMPRISED OF FEWER THAN ALL OF THE INDEPENDENT TRUSTEES, THEN: (1) THE COMPENSATION COMMITTEE SHALL RECOMMEND TO ALL OF THE INDEPENDENT TRUSTEES FOR THEIR APPROVAL THE TOTAL COMPENSATION OF EACH INDIVIDUAL THAT THE COMMITTEE HAS AFFIRMATIVELY DETERMINED IS FAIR, REASONABLE, AND COMMENSURATE WITH SERVICES PROVIDED TO THE TRUST, AND INCLUDE THEREWITH THE WRITTEN RECORD OF ITS DETERMINATION CREATED PURSUANT TO SUBPARAGRAPH THREE OF THIS PARAGRAPH; (2) UPON REVIEW OF THE RECOMMENDATIONS OF THE COMPENSATION COMMITTEE, THE TRUSTEES SHALL APPROVE BY NOT LESS THAN A MAJORITY VOTE OF THE INDEPENDENT TRUSTEES THE TOTAL COMPENSATION OF EACH SUCH INDIVIDUAL, WITH ONLY INDEPENDENT TRUSTEES PARTICIPATING IN ANY SUCH VOTE AND ANY DISCUSSION RELATING THERETO; AND (3) THE INDEPENDENT TRUSTEES SHALL KEEP A CONTEMPORANEOUS WRITTEN RECORD OF THE BASIS OF ITS DETERMINATION, INCLUDING AREAS OF AGREEMENT OR DISAGREEMENT WITH THE RECOMMENDATIONS OF THE COMPENSATION COMMITTEE. (4) THE COMPENSATION COMMITTEE MAY RETAIN A COMPENSATION CONSULTANT TO ASSIST IN THE PERFORMANCE OF ITS RESPONSIBILITIES. THE COMPENSATION COMMITTEE SHALL BE DIRECTLY RESPONSIBLE FOR THE APPOINTMENT, COMPENSATION AND OVERSIGHT OF THE WORK OF SUCH CONSULTANT, AND ANY SUCH CONSULTANT SHALL REPORT DIRECTLY TO THE COMPENSATION COMMITTEE. THE COMPENSATION COMMITTEE SHALL, AMONG ITS RESPONSIBILITIES,

APPROVE THE COMPENSATION PEER GROUP THAT THE COMPENSATION CONSULTANT RECOMMENDS BE USED TO DEVELOP BENCHMARK DATA. (I) PRIOR TO RETAINING ANY SUCH CONSULTANT, THE COMPENSATION COMMITTEE SHALL DETERMINE THAT THE CONSULTANT IS INDEPENDENT AND QUALIFIED TO RENDER ADVICE TO THE TRUST CONCERNING COMPENSATION; PROVIDED THAT NO CONSULTANT MAY BE DETERMINED INDEPENDENT IF SUCH CONSULTANT OR ANY FIRM THAT EMPLOYS SUCH CONSULTANT HAS (A) RECEIVED DIRECTLY OR INDIRECTLY ANY PAYMENT, FEE OR OTHER COMPENSATION FROM THE TRUST OR ANY AFFILIATE OF THE TRUST WITHIN THE PRECEDING TWO YEARS, OTHER THAN REASONABLE AMOUNTS PAID FOR COMPENSATION CONSULTING SERVICES, OR (B) ANY BUSINESS OR PERSONAL RELATIONSHIP WITH THE TRUST OR ANY AFFILIATE OF THE TRUST, OR ANY OF ITS OR THEIR OFFICERS, DIRECTORS OR EMPLOYEES, THAT MAY INTERFERE WITH THE ABILITY OF THE CONSULTANT TO PROVIDE OBJECTIVE ADVICE TO THE COMMITTEE. (II) NOTHING IN THIS SUBPARAGRAPH SHALL BE CONSTRUED TO (A) REQUIRE THE COMPENSATION COMMITTEE TO IMPLEMENT OR ACT CONSISTENTLY WITH THE ADVICE OR RECOMMENDATIONS PROVIDED BY THE COMPENSATION CONSULTANT TO THE COMPENSATION COMMITTEE; OR (B) AFFECT THE ABILITY OR OBLIGATION OF MEMBERS OF THE COMPENSATION COMMITTEE TO EXERCISE THEIR OWN JUDGMENT IN FULFILLMENT OF THEIR DUTIES TO THE TRUST AND ITS BENEFICIARIES. (5) THE COMPENSATION COMMITTEE SHALL ADOPT A CHARTER SETTING FORTH ITS RESPONSIBILITIES, INCLUDING AS PRESCRIBED BY THIS PARAGRAPH, AS WELL AS REQUIREMENTS CONCERNING THE SIZE, COMPOSITION AND FUNCTIONING OF THE COMPENSATION COMMITTEE.

(E) (1) NOTWITHSTANDING ANY PROVISION IN THE TRUST INSTRUMENT TO THE CONTRARY, NO TRUST SHALL ENTER INTO A RELATED PARTY TRANSACTION, UNLESS:

(I) THE MATERIAL FACTS AS TO THE RELATED PARTY'S INTEREST IN, AND RELATIONSHIP TO, THE TRANSACTION ARE DISCLOSED IN GOOD FAITH TO THE TRUSTEES; (II) THE TRUSTEES: (A) CONSIDER ALTERNATIVE TRANSACTIONS TO THE EXTENT AVAILABLE AND UPON REASONABLE DILIGENCE DETERMINE THAT SUCH ALTERNATIVE TRANSACTIONS WOULD NOT BE MORE ADVANTAGEOUS TO THE TRUST AND ITS BENEFICIARIES UNDER THE CIRCUMSTANCES; (B) DETERMINE BY A TWO-THIRDS VOTE OF THE TRUSTEES THAT THE RELATED PARTY TRANSACTION IS FAIR, REASONABLE AND IN THE BEST INTERESTS OF THE TRUST AND ITS BENEFICIARIES AND APPROVE SUCH TRANSACTION, AND THE RELATED PARTY WITH AN INTEREST IN THE TRANSACTION IS NOT PRESENT AT AND OTHERWISE DOES NOT OTHERWISE PARTICIPATE IN ANY DELIBERATION OR VOTING RELATING THERETO; AND (C) CONTEMPORANEOUSLY DOCUMENT IN WRITING THE BASIS FOR THEIR DETERMINATION AND APPROVAL OF THE TRANSACTION. THIS SUBPARAGRAPH SHALL NOT APPLY TO ANY COMPENSATION REVIEWED AND APPROVED IN ACCORDANCE WITH SUBPARAGRAPH FOUR OF PARAGRAPH (C) OF THIS SECTION.

(2) THE TRUST INSTRUMENT, BYLAWS OR CONFLICT OF INTEREST POLICY OF THE TRUST MAY CONTAIN ADDITIONAL RESTRICTIONS ON RELATED PARTY TRANSACTIONS AND ADDITIONAL PROCEDURES NECESSARY FOR THE REVIEW OR APPROVAL OF SUCH TRANSACTIONS, OR PROVIDE THAT ANY TRANSACTIONS IN VIOLATION OF SUCH RESTRICTIONS SHALL BE VOID OR VOIDABLE.

(3) ANY TRUSTEE OR KEY EMPLOYEE WHO HAS AN INTEREST IN A RELATED PARTY TRANSACTION SHALL, PRIOR TO THE TRUSTEES' CONSIDERATION OF THE PROPOSED TRANSACTION, DISCLOSE IN GOOD FAITH TO THE TRUSTEES THE MATERIAL FACTS AS TO SUCH PERSON'S INTEREST IN, AND RELATIONSHIP TO, THE TRANSACTION. THE TRUSTEES SHALL ADOPT AND IMPLEMENT PROCEDURES FOR THE TIMELY DISCLOSURE OF SUCH FACTS TO THE TRUSTEES.

(4) THE ATTORNEY GENERAL MAY BRING AN ACTION TO ENJOIN, VOID OR RESCIND ANY RELATED PARTY TRANSACTION OR A PROPOSED RELATED PARTY TRANSACTION THAT VIOLATES ANY LAW OR IS OTHERWISE NOT FAIR, REASONABLE, OR IN THE BEST INTERESTS OF THE TRUST OR ITS BENEFICIARIES, OR TO SEEK OTHER RELIEF, INCLUDING BUT NOT LIMITED TO DAMAGES, RESTITUTION, THE REMOVAL

OF TRUSTEES, OR SEEK TO REQUIRE ANY PERSON OR ENTITY TO: (I) ACCOUNT FOR ANY PROFITS MADE FROM SUCH TRANSACTION, AND PAY THEM TO THE TRUST; (II) PAY THE TRUST THE VALUE OF THE USE OF ANY OF ITS PROPERTY OR OTHER ASSETS USED IN SUCH TRANSACTION; (III) 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 (IV) PAY, IN THE CASE OF WILLFUL CONDUCT, AN AMOUNT UP TO DOUBLE THE AMOUNT OF ANY BENEFIT IMPROPERLY OBTAINED.

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

(F)(1) EVERY TRUST SHALL ADOPT A CONFLICT OF INTEREST POLICY TO ENSURE THAT ITS TRUSTEES 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 PARAGRAPH (D) OF THIS SECTION.

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

(I) A DEFINITION OF THE CIRCUMSTANCES THAT CONSTITUTE A CONFLICT OF INTEREST; (II) PROCEDURES FOR DISCLOSING A CONFLICT OF INTEREST TO THE AUDIT COMMITTEE OR, IF THERE IS NO AUDIT COMMITTEE, TO THE TRUSTEES; (III) 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; (IV) 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; (V) 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 (VI) PROCEDURES FOR DISCLOSING, ADDRESSING, AND DOCUMENTING RELATED PARTY TRANSACTIONS IN ACCORDANCE WITH PARAGRAPH (D) OF THIS SECTION.

(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 WITH WHICH THE TRUST HAS, OR MIGHT BE EXPECTED TO HAVE, A RELATIONSHIP OR A TRANSACTION 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) EVERY TRUST REGISTERED OR REQUIRED TO BE REGISTERED PURSUANT TO SECTION ONE HUNDRED SEVENTY-TWO OF THE EXECUTIVE LAW OR SECTION 8-1.4 OF THIS PART SHALL TRANSMIT SUCH POLICIES TO THE ATTORNEY GENERAL IN THE FORM AND MANNER SPECIFIED BY THE ATTORNEY GENERAL, AND SHALL WITHIN THIRTY DAYS OF ANY MATERIAL CHANGE OF THESE POLICIES PROVIDE THE ATTORNEY GENERAL WITH THE CHANGED POLICIES.

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

(G)(1) 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 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:

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

(II) PROCEDURES FOR HANDLING AND INVESTIGATING VIOLATIONS OR SUSPECTED VIOLATIONS OF LAWS OR TRUST POLICIES;

(III) A REQUIREMENT THAT A TRUSTEE OR AN EMPLOYEE OF THE TRUST BE DESIGNATED TO ADMINISTER, IMPLEMENT AND OVERSEE COMPLIANCE OF THE WHISTLE-BLOWER POLICY AND TO REPORT TO THE AUDIT COMMITTEE OR OTHER COMMITTEE OF INDEPENDENT TRUSTEES, OR TO THE TRUSTEES;

(IV) A REQUIREMENT THAT ALL DOCUMENTS CONCERNING INFORMATION REPORTED UNDER THE WHISTLEBLOWER POLICY AND ANY INVESTIGATION RELATING THERETO BE RETAINED BY THE TRUST FOR A MINIMUM PERIOD OF SIX YEARS; AND

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

(3) NOTHING IN THIS SECTION 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 106. 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 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 107. 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] NO CHARITABLE CORPORATION AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO OF THE NOT-FOR-PROFIT CORPORATION LAW OR ANY CORPORATIONS ORGANIZED PRIOR TO JANUARY FIRST, TWO THOUSAND FOURTEEN AS A TYPE C CORPORATION pursuant to section two hundred one of the not-for-profit corporation law [as type C corporations] OR AS A CHARITABLE CORPORATION AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO 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 108. 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 SECTION FIVE HUNDRED ONE (C)(3) OF THE INTERNAL REVENUE CODE, shall not be deemed a fund raising counsel.

S 109. Subdivision 1 of section 172 of the executive law is amended by adding a new paragraph (k) to read as follows:

(K) ANY CONFLICT OF INTEREST POLICY AND ANY WHISTLEBLOWER POLICY ADOPTED PURSUANT TO SECTIONS SEVEN HUNDRED FIFTEEN-A AND SEVEN HUNDRED FIFTEEN-B OF THE NOT-FOR-PROFIT CORPORATION LAW OR SECTION 8-1.9 OF THE ESTATES, POWERS AND TRUSTS LAW.

S 110. Subdivisions 1 and 2 of section 172-b of the executive law, as amended by section 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] FIVE HUNDRED thousand 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 thousand dollars but not more than [two hundred fifty] FIVE HUNDRED thousand 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 requirements 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 SIXTY DAYS OF THE ATTORNEY GENERAL'S REQUEST FOR SUCH REPORT.

S 111. 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 112. 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 113. 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 114. 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 115. 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 116. 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 OR MERGER. 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 117. 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 OR MERGER. 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 118. 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 thirteen,] 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 119. 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 120. 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 121. 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 122. 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) of section two hundred one] AS DEFINED IN PARAGRAPH (A) OF SECTION ONE HUNDRED TWO (DEFINITIONS) 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 123. 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 124. 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) 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 125. 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 126. 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 127. 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 128. 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 129. 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 130. 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] TWELVE-C of the banking law.

S 131. 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 132. 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 133. 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 134. This act shall take effect January 1, 2014, provided, however, that section forty-five of this act shall take effect January 1, 2015.