

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

S. 2608--B

A. 3008--B

S E N A T E - A S S E M B L Y

January 22, 2013

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to authorize funding for the Consolidated Local Street and Highway Improvement Program (CHIPS) and Marchiselli program for state fiscal year 2013-2014 (Part A); to amend the tax law, in relation to the statewide transmission tax (Part B); to amend the vehicle and traffic law, in relation to imposing drivers license sanctions (Part C); to amend the vehicle and traffic law, in relation to the hours of operation of the department of motor vehicles (Part D); to amend the public authorities law, in relation to enforcement assistance; and to repeal section 357-a of such law relating to payment by the New York state thruway authority for services provided by the division of state police (Part E); to amend the environmental conservation law and the state finance law, in relation to establishing the "Cleaner, Greener NY Act of 2013"; and repealing section 27-1017 of the environmental conservation law relating thereto (Part F); to amend the environmental conservation law, in relation to waste tire management and recycling fees (Part G); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part H); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to extending certain authority of the dormitory authority of the state of New York (Part I); Intentionally omitted (Part J); to authorize and direct

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

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the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part K); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration and policy and planning programs from assessments on gas and electric corporations (Part L); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part M); to amend the public service law, in relation to extending the temporary state energy and utility conservation assessment; and to amend section 6 of part NN of chapter 59 of the laws of 2009 amending the public service law relating to financing the operations of the department of public service, the public service commission, department support and energy management services provided by other state agencies, increasing the utility assessment cap and the minimum threshold for collection thereunder, and establishing a temporary state energy and utility service conservation assessment and providing for the collection thereof, in relation to extending the effectiveness thereof (Part N); to amend the public service law, in relation to strengthening the oversight and enforcement mechanisms of the Public Service Commission; to amend the general business law, in relation to expanding the definition of underground facilities and increasing fines for violations relating to the protection of underground facilities; and to repeal certain provisions of the public service law relating thereto (Part O); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the expiration date thereof (Part P); to amend the banking law, the cooperative corporations law, the general business law, and the not-for-profit corporation law, in relation to facilitating an online corporate filing system by removing the type classification system for not-for-profit corporations; to repeal certain provisions of the not-for-profit corporation law and the religious corporations law, relating thereto (Subpart A); to amend the business corporation law, the education law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the public health law and the transportation corporations law, in relation to facilitating online filing by authorizing self-certification by filers with regard to required consents; to repeal certain provisions of the business corporation law and the not-for-profit corporation law, relating thereto (Subpart B); to amend the business corporation law, the limited liability company law, the not-for-profit corporation law and the partnership law, in relation to authorizing electronic attendance at meetings (Subpart C); to amend the business corporation law, the limited liability company law and the not-for-profit corporation law, in relation to who may act as an incorporator (Subpart D); to amend the general associations law, in relation to serving process upon the secretary of state as agent (Subpart E) (Part Q); to amend the environmental conservation law, in relation to the issuance of hunting and fishing licenses; to amend part AA of chapter 60 of the laws of 2011, amending the environmental conservation law relating to saltwater recreational fishing registrations, in relation to making the provisions of such part permanent; and to repeal certain provisions of such law relating thereto (Part R); and to amend the

agriculture and markets law and the public authorities law, in relation to alternate generated power sources at retail gasoline outlets (Part S)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2013-2014
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through S. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. The sum of four hundred two million seven hundred ninety-
14 seven thousand dollars (\$402,797,000), or so much thereof as shall be
15 necessary, and in addition to amounts previously appropriated by law, is
16 hereby made available, in accordance with subdivision 1 of section 380
17 of the public authorities law as amended, according to the following
18 schedule. Payments pursuant to subdivision (a) of this section shall be
19 made available as moneys become available for such payments. Payments
20 pursuant to subdivisions (b) and (c) of this section shall be made
21 available on the fifteenth day of June, September, December and March or
22 as soon thereafter as moneys become available for such payments. No
23 moneys of the state in the state treasury or any of its funds shall be
24 available for payments pursuant to this section:

25 SCHEDULE

26 (a) Thirty-nine million seven hundred thousand dollars (\$39,700,000)
27 to municipalities for repayment of eligible costs of federal aid munici-
28 pal street and highway projects pursuant to section 15 of chapter 329 of
29 the laws of 1991, as added by section 9 of chapter 330 of the laws of
30 1991, as amended. The department of transportation shall provide such
31 information to the municipalities as may be necessary to maintain the
32 federal tax exempt status of any bonds, notes, or other obligations
33 issued by such municipalities to provide for the non-federal share of
34 the cost of projects pursuant to chapter 330 of the laws of 1991 or
35 section 80-b of the highway law.

36 The program authorized pursuant to section 15 of chapter 329 of the
37 laws of 1991, as added by section 9 of chapter 330 of the laws of 1991,
38 as amended, shall additionally make payments for reimbursement according
39 to the following schedule:

40 State Fiscal Year	Amount
41 2013-14	\$39,700,000

42 (b) Three hundred four million three hundred thousand dollars
43 (\$304,300,000) to counties, cities, towns and villages for reimbursement
44 of eligible costs of local highway and bridge projects pursuant to
45 sections 16 and 16-a of chapter 329 of the laws of 1991, as added by
46 section 9 of chapter 330 of the laws of 1991, as amended. For the

1 purposes of computing allocations to municipalities, the amount distrib-
 2 uted pursuant to section 16 of chapter 329 of the laws of 1991 shall be
 3 deemed to be \$121,520,000. The amount distributed pursuant to section
 4 16-a of chapter 329 of the laws of 1991 shall be deemed to be
 5 \$182,780,000. Notwithstanding the provisions of any general or special
 6 law, the amounts deemed distributed in accordance with section 16 of
 7 chapter 329 of the laws of 1991 shall be adjusted so that such amounts
 8 will not be less than 83.807 percent of the "funding level" as defined
 9 in subdivision 5 of section 10-c of the highway law for each such muni-
 10 cipality. In order to achieve the objectives of section 16 of chapter
 11 329 of the laws of 1991, to the extent necessary, the amounts in excess
 12 of 83.807 percent of the funding level to be deemed distributed to each
 13 municipality under this subdivision shall be reduced in equal propor-
 14 tion.

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

36 The program authorized pursuant to sections 16 and 16-a of chapter 329
 37 of the laws of 1991, as added by section 9 of chapter 330 of the laws of
 38 1991, as amended, shall additionally make payments for reimbursement
 39 according to the following schedule:

40	State Fiscal Year	Amount
41	2013-14	\$363,097,000

42 S 2. This act shall take effect immediately.

43 PART B

44 Section 1. Subdivision 3 of section 205 of the tax law, as added by
 45 section 8 of part U1 of chapter 62 of the laws of 2003, is amended to
 46 read as follows:

47 3. [From the] THE moneys collected from the taxes imposed by sections
 48 one hundred eighty-three and one hundred eighty-four of this article on
 49 and after April first, two thousand [four] THIRTEEN, after reserving
 50 amounts for refunds or reimbursements, SHALL BE DISTRIBUTED AS FOLLOWS:
 51 twenty percent of such moneys shall be deposited to the credit of the
 52 dedicated highway and bridge trust fund established by section eighty-
 53 nine-b of the state finance law[. The remainder], FIFTY-FOUR PERCENT OF
 54 SUCH MONEYS shall be deposited in the mass transportation operating

1 assistance fund to the credit of the metropolitan mass transportation
2 operating assistance account created pursuant to section eighty-eight-a
3 of the state finance law AND TWENTY-SIX PERCENT OF SUCH MONEYS SHALL BE
4 DEPOSITED IN THE MASS TRANSPORTATION OPERATING ASSISTANCE FUND TO THE
5 CREDIT OF THE PUBLIC TRANSPORTATION SYSTEMS OPERATING ASSISTANCE ACCOUNT
6 CREATED PURSUANT TO SECTION EIGHTY-EIGHT-A OF THE STATE FINANCE LAW.

7 S 2. This act shall take effect on the same date and in the same
8 manner as the expiration and repeal of subdivision 3 of section 205 of
9 the tax law per section 2 of part P of chapter 59 of the laws of 2012,
10 as amended; provided, however, that the amendments to subdivision 3 of
11 section 205 of the tax law made by section one of this act shall not
12 affect the repeal of such subdivision and shall be deemed repealed ther-
13 ewith.

14 PART C

15 Section 1. Paragraph (a) of subdivision 4 of section 510-a of the
16 vehicle and traffic law, as amended by section 14 of part E of chapter
17 60 of the laws of 2005, is amended to read as follows:

18 (a) A serious traffic violation shall mean operating a commercial
19 motor vehicle IN VIOLATION OF A STATE OR LOCAL LAW OR ORDINANCE
20 RESTRICTING OR PROHIBITING THE USE OF A HAND-HELD MOBILE TELEPHONE OR A
21 PORTABLE ELECTRONIC DEVICE WHILE DRIVING OR in violation of any
22 provision of this chapter or the laws of any other state, the District
23 of Columbia or any Canadian province which (i) limits the speed of motor
24 vehicles, provided the violation involved fifteen or more miles per hour
25 over the established speed limit; (ii) is defined as reckless driving by
26 state or local law or regulation; (iii) prohibits improper or erratic
27 lane change; (iv) prohibits following too closely; (v) relates to motor
28 vehicle traffic (other than parking, standing or stopping) and which
29 arises in connection with a fatal accident; (vi) operating a commercial
30 motor vehicle without first obtaining a commercial driver's license as
31 required by section five hundred one of this title; (vii) operating a
32 commercial motor vehicle without a commercial driver's license in the
33 driver's possession; or (viii) operating a commercial motor vehicle
34 without the proper class of commercial driver's license and/or endorse-
35 ment for the specific vehicle being operated or for the passengers or
36 type of cargo being transported.

37 S 2. Paragraphs (c) and (e) of subdivision 1 of section 1225-c of the
38 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
39 amended to read as follows:

40 (c) "Using" shall mean holding a mobile telephone to, or in the imme-
41 diate proximity of, the user's ear, DIALING OR ANSWERING A MOBILE TELE-
42 PHONE BY PRESSING MORE THAN A SINGLE BUTTON, OR REACHING FOR A MOBILE
43 TELEPHONE IN A MANNER THAT REQUIRES A DRIVER TO MANEUVER SO THAT SUCH
44 DRIVER IS NO LONGER IN A SEATED POSITION, RESTRAINED BY A SEAT BELT THAT
45 IS INSTALLED IN ACCORDANCE WITH 49 CFR 393.93 AND ADJUSTED IN ACCORDANCE
46 WITH THE VEHICLE MANUFACTURER'S INSTRUCTIONS.

47 (e) "Hands-free mobile telephone" shall mean a mobile telephone that
48 has an internal feature or function, or that is equipped with an attach-
49 ment or addition, whether or not permanently part of such mobile tele-
50 phone, by which a user engages in a call without the use of either hand,
51 whether or not the use of either hand is necessary to activate, deacti-
52 vate or initiate a function of such telephone, PROVIDED, HOWEVER, THAT A
53 TELEPHONE THAT REQUIRES DIALING OR ANSWERING SUCH TELEPHONE BY PRESSING

1 MORE THAN A SINGLE BUTTON SHALL NOT CONSTITUTE A HANDS-FREE MOBILE TELE-
2 PHONE.

3 S 3. Paragraphs (a) and (b) of subdivision 2 of section 1225-c of the
4 vehicle and traffic law, as added by chapter 69 of the laws of 2001, are
5 amended and a new paragraph (d) is added to read as follows:

6 (a) Except as otherwise provided in this section, no person shall
7 operate a motor vehicle upon a public highway while using a mobile tele-
8 phone to engage in a call while such vehicle is in motion, PROVIDED,
9 HOWEVER, NO PERSON SHALL OPERATE A COMMERCIAL MOTOR VEHICLE, AS DEFINED
10 IN SUBDIVISION FOUR-A OF SECTION TWO OF THE TRANSPORTATION LAW, WHILE
11 USING A MOBILE TELEPHONE ON A PUBLIC HIGHWAY, INCLUDING WHILE TEMPORAR-
12 ILY STATIONARY BECAUSE OF TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER
13 MOMENTARY DELAYS. THE OPERATOR OF A COMMERCIAL MOTOR VEHICLE MAY USE A
14 MOBILE TELEPHONE WHEN SUCH OPERATOR HAS MOVED THE VEHICLE TO THE SIDE
15 OF, OR OFF, A HIGHWAY AND HAS HALTED IN A LOCATION WHERE THE VEHICLE CAN
16 REMAIN STATIONARY UNLESS STOPPING IS PROHIBITED BY LAW, RULES AND REGU-
17 LATIONS OR BY A DIRECTIVE OF LAW ENFORCEMENT.

18 (b) An operator of [a] ANY motor vehicle who holds a mobile telephone
19 to, or in the immediate proximity of his or her ear while such vehicle
20 is in motion is presumed to be engaging in a call within the meaning of
21 this section, PROVIDED, HOWEVER, THAT AN OPERATOR OF A COMMERCIAL MOTOR
22 VEHICLE WHO HOLDS A MOBILE TELEPHONE TO, OR IN THE IMMEDIATE PROXIMITY
23 OF HIS OR HER EAR WHILE SUCH VEHICLE IS TEMPORARILY STATIONARY BECAUSE
24 OF TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER MOMENTARY DELAYS IS ALSO
25 PRESUMED TO BE ENGAGING IN A CALL WITHIN THE MEANING OF THIS SECTION.
26 The presumption established by this subdivision is rebuttable by
27 evidence tending to show that the operator was not engaged in a call.

28 (D) NO MOTOR CARRIER, AS DEFINED IN SUBDIVISION SEVENTEEN OF SECTION
29 TWO OF THE TRANSPORTATION LAW, SHALL ALLOW OR REQUIRE ITS DRIVERS TO USE
30 A HAND-HELD MOBILE TELEPHONE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE.

31 S 4. Subdivision 1 of section 1225-d of the vehicle and traffic law,
32 as added by chapter 403 of the laws of 2009, is amended to read as
33 follows:

34 1. Except as otherwise provided in this section, no person shall oper-
35 ate a motor vehicle while using any portable electronic device while
36 such vehicle is in motion, PROVIDED, HOWEVER, NO PERSON SHALL OPERATE A
37 COMMERCIAL MOTOR VEHICLE, AS DEFINED IN SUBDIVISION FOUR-A OF SECTION
38 TWO OF THE TRANSPORTATION LAW, WHILE USING A PORTABLE ELECTRONIC DEVICE
39 ON A PUBLIC HIGHWAY, INCLUDING WHILE TEMPORARILY STATIONARY BECAUSE OF
40 TRAFFIC, A TRAFFIC CONTROL DEVICE, OR OTHER MOMENTARY DELAYS. THE OPERA-
41 TOR OF A COMMERCIAL MOTOR VEHICLE MAY USE A PORTABLE ELECTRONIC DEVICE
42 WHEN SUCH OPERATOR HAS MOVED THE VEHICLE TO THE SIDE OF, OR OFF, A HIGH-
43 WAY AND HAS HALTED IN A LOCATION WHERE THE VEHICLE CAN REMAIN STATIONARY
44 UNLESS STOPPING IS PROHIBITED BY LAW, RULES, AND REGULATIONS OR BY A
45 DIRECTIVE OF LAW ENFORCEMENT.

46 S 5. Section 1225-d of the vehicle and traffic law is amended by
47 adding a new subdivision 1-a to read as follows:

48 1-A. NO MOTOR CARRIER, AS DEFINED IN SUBDIVISION SEVENTEEN OF SECTION
49 TWO OF THE TRANSPORTATION LAW, SHALL ALLOW OR REQUIRE ITS DRIVERS TO USE
50 A PORTABLE ELECTRONIC DEVICE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE.

51 S 6. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the
52 vehicle and traffic law, as added by chapter 403 of the laws of 2009,
53 are amended to read as follows:

54 (a) "Portable electronic device" shall mean any hand-held mobile tele-
55 phone, as defined by subdivision one of section twelve hundred twenty-
56 five-c of this article, personal digital assistant (PDA), handheld

1 device with mobile data access, laptop computer, pager, broadband
2 personal communication device, two-way messaging device, electronic
3 game, or portable computing device OR ANY OTHER DEVICE USED TO INPUT,
4 WRITE, SEND, RECEIVE OR READ TEXT.

5 (b) "Using" shall mean holding a portable electronic device while
6 viewing, taking or transmitting images, INSTANT MESSAGING, PERFORMING A
7 COMMAND OR REQUEST TO ACCESS A WORLD WIDE WEB PAGE, playing games, or
8 composing, sending, reading, viewing, accessing, browsing, transmitting,
9 saving or retrieving e-mail, text messages, or other electronic data.

10 S 7. This act shall take effect October 28, 2013 and shall apply to
11 violations committed on or after such date.

12 PART D

13 Section 1. Subdivision 1 of section 200 of the vehicle and traffic
14 law, as amended by chapter 60 of the laws of 1993, is amended to read as
15 follows:

16 1. There shall be in the state government a department of motor vehi-
17 cles. The head of the department shall be the commissioner of motor
18 vehicles who shall be appointed by the governor, by and with the advice
19 and consent of the senate, and hold office until the end of the term of
20 the appointing governor and until a successor is appointed and has qual-
21 ified, and who shall receive an annual salary within the amount appro-
22 priated therefor. The commissioner of motor vehicles shall have the
23 immediate charge of the department. The commissioner of motor vehicles
24 may appoint, and at pleasure remove, such deputy commissioners of motor
25 vehicles, inspectors, examiners and other assistants and employees of
26 the department as are deemed necessary, within the amounts available
27 therefor by appropriation. The commissioner of motor vehicles and all
28 other officers and employees of the department shall be paid and allowed
29 their necessary, actual and reasonable expenses incurred in the exercise
30 of their duties. All salaries and expenses of the department shall be
31 paid out of the state treasury on the audit and warrant of the comp-
32 troller on the certificate of the commissioner of motor vehicles. The
33 principal office of the department shall be in the city of Albany.
34 NOTWITHSTANDING THE PROVISIONS OF SECTION SIXTY-TWO OF THE PUBLIC OFFI-
35 CERS LAW, THE COMMISSIONER OF MOTOR VEHICLES MAY DESIGNATE CERTAIN
36 BRANCH OFFICES OF THE DEPARTMENT TO BE OPEN TO SERVE THE PUBLIC AND
37 TRANSACT BUSINESS ON SATURDAYS.

38 S 2. This act shall take effect immediately.

39 PART E

40 Section 1. Section 357-a of public authorities law is REPEALED and a
41 new section 357-a is added to read as follows:

42 S 357-A. STATE POLICE AND STATE PAYMENT FOR SERVICES. 1. ENFORCEMENT
43 ASSISTANCE SHALL BE PROVIDED BY THE DIVISION OF STATE POLICE AT A LEVEL
44 CONSISTENT WITH HISTORICAL PRECEDENTS, AS A MATTER OF STATE INTEREST, ON
45 ALL SECTIONS OF THE THRUWAY. THE AUTHORITY SHALL PROVIDE GOODS AND
46 SERVICES TO THE DIVISION OF STATE POLICE IN CONNECTION WITH ITS ENFORCE-
47 MENT ACTIVITY ON THE THRUWAY. THE DIVISION OF STATE POLICE AND THE
48 AUTHORITY SHALL ENTER INTO AN AGREEMENT IDENTIFYING THOSE GOODS AND
49 SERVICES THAT THE AUTHORITY WILL PROVIDE TO THE DIVISION OF STATE POLICE
50 AND DETERMINE REPORTING AND OTHER REQUIREMENTS RELATED THERETO. ANY
51 COSTS BORNE BY THE STATE POLICE OUTSIDE OF SUCH AGREEMENT SHALL NOT BE

REIMBURSED BY THE AUTHORITY NOR SHALL THEY BE DEEMED COSTS OF THE AUTHORITY.

2. THE STATE SHALL BE RESPONSIBLE FOR ADDITIONAL GOODS AND SERVICES PROVIDED BY THE AUTHORITY EQUAL TO TWENTY-FOUR MILLION DOLLARS IN EACH CALENDAR YEAR. SUCH GOODS AND SERVICES SHALL BE DEEMED TO BE COSTS TO THE STATE AND NOT OPERATING COSTS OF THE AUTHORITY. THE AUTHORITY AND THE DIRECTOR OF THE DIVISION OF THE BUDGET SHALL ENTER INTO AN AGREEMENT IDENTIFYING ANY SUCH STATE COSTS AND DETERMINE REPORTING AND OTHER REQUIREMENTS RELATED THERETO.

3. NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE AUTHORITY SHALL NOT CONSTITUTE A PUBLIC BENEFIT CORPORATION WITHIN THE MEANING OF SECTION TWENTY-NINE HUNDRED SEVENTY-FIVE OF THIS CHAPTER AND SHALL NOT BE ASSESSED AN ANNUAL COST RECOVERY CHARGE UNDER SAID SECTION.

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after January 1, 2013.

PART F

Section 1. This act shall be known and may be cited as the "Cleaner, Greener NY act of 2013."

S 2. Subdivision 2-a of section 27-1003 of the environmental conservation law, as added by section 3 of part SS of chapter 59 of the laws of 2009, is amended to read as follows:

2-a. "Bottler" means a person, firm or corporation who:

a. bottles, cans or otherwise packages beverages in beverage containers except that if such packaging is for [a distributor] ANY OTHER PERSON, FIRM OR CORPORATION having the right to bottle, can or otherwise package the same brand of beverage, then such [distributor] OTHER PERSON, FIRM OR CORPORATION shall be the bottler; or

b. imports filled beverage containers into the United States.

S 3. Subdivisions 2, 3, 4, 5, 7, 8 and 11 of section 27-1007 of the environmental conservation law, as added by section 4 of part SS of chapter 59 of the laws of 2009, are amended to read as follows:

2. A dealer shall post a conspicuous sign, at the point of sale, that states:

"NEW YORK BOTTLE BILL OF RIGHTS

STATE LAW REQUIRES US TO REDEEM EMPTY RETURNABLE BEVERAGE CONTAINERS OF THE SAME TYPE AND BRAND THAT WE SELL OR OFFER FOR SALE

YOU HAVE CERTAIN RIGHTS UNDER THE NEW YORK STATE RETURNABLE CONTAINER ACT:

THE RIGHT to return your empties for refund to any dealer who sells the same brand, type and size, whether you bought the beverage from the dealer or not. It is illegal to return containers for refund [that you did not pay] ON WHICH a deposit WAS NEVER PAID in New York state.

THE RIGHT to get your deposit refund in cash, without proof of purchase.

THE RIGHT to return your empties any day, any hour, except for the first and last hour of the dealer's business day (empty containers may be redeemed at any time in 24-hour stores).

THE RIGHT to return your containers if they are REASONABLY CLEAN, empty and intact. [Washing containers is not required by law, but is strongly recommended to maintain sanitary conditions.]

The New York state returnable container act can be enforced by the New York state department of environmental conservation, the New York state

1 department of agriculture and markets, the New York state department of
2 taxation and finance, the New York state attorney general and/or by your
3 local government."

4 Such sign must be no less than eight inches by ten inches in size and
5 have lettering a minimum of one quarter inch high, and of a color which
6 contrasts with the background. The department shall maintain a toll free
7 telephone number for a "bottle bill complaint line" that shall be avail-
8 able from 9:00 a.m. to 5:00 p.m. each business day to receive reports of
9 violations of this title. The telephone number shall be listed on any
10 sign required by this section.

11 3. [On or after June first, two thousand nine, a] A dealer WHOSE PLACE
12 OF BUSINESS IS LESS THAN TEN THOUSAND SQUARE FEET IN SIZE may limit the
13 number of empty beverage containers to be accepted for redemption at the
14 dealer's place of business to no less than seventy-two containers per
15 visit, per redeemer, per day, provided that:

16 (a) The dealer has a written agreement with a redemption center, be it
17 either at a fixed physical location within the same county and within
18 ONE AND one-half mile of the dealer's place of business, or a mobile
19 redemption center, operated by a redemption center, that is located
20 within [one-quarter] ONE mile of the dealer's place of business. The
21 redemption center must have a written agreement with the dealer to
22 accept containers on behalf of the dealer; and the redemption center's
23 hours of operation must cover at least 9:00 a.m. through 7:00 p.m. daily
24 or in the case of a mobile redemption center, the hours of operation
25 must cover at least four consecutive hours between 8:00 a.m. and 8:00
26 p.m. daily. The dealer must post a conspicuous, permanent sign, meeting
27 the size and color specifications set forth in subdivision two of this
28 section, open to public view, identifying the location and hours of
29 operation of the affiliated redemption center or mobile redemption
30 center; [and] OR

31 (b) The dealer provides, at a minimum, a consecutive two hour period
32 between 7:00 a.m. and 7:00 p.m. daily whereby the dealer will accept up
33 to two hundred forty containers, per redeemer, per day, and posts a
34 conspicuous, permanent sign, meeting the size and color specifications
35 set forth in subdivision two of this section, open to public view, iden-
36 tifying those hours. The dealer may not change the hours of redemption
37 without first posting a thirty day notice[; and

38 (c) The dealer's primary business is the sale of food or beverages for
39 consumption off-premises, and the dealer's place of business is less
40 than ten thousand square feet in size].

41 4. A deposit initiator shall accept from a dealer or operator of a
42 redemption center any empty beverage container of the design, shape,
43 size, color, composition and brand sold or offered for sale by the
44 deposit initiator, PROVIDED SUCH CONTAINERS ARE PROPERLY SORTED AS
45 DETERMINED IN RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER and
46 shall pay the dealer or operator of a redemption center the refund value
47 of each such beverage container as established by section 27-1005 of
48 this title. A deposit initiator shall accept and redeem all such empty
49 beverage containers from a dealer or redemption center without limita-
50 tion on quantity.

51 5. A deposit initiator's or distributor's failure to pick up empty
52 beverage containers[, including containers processed in a reverse vend-
53 ing machine,] from a redemption center, dealer or the operator of a
54 reverse vending machine, shall be a violation of this title.

55 7. A deposit initiator [on a brand] WHO INITIATES A DEPOSIT ON A
56 BEVERAGE CONTAINER shall accept SUCH EMPTY BEVERAGE CONTAINER from [a]

1 AND REIMBURSE ANY distributor who [does not initiate deposits on that
2 brand any] ACCEPTED AND REDEEMED SUCH empty beverage [containers of that
3 brand accepted by the distributor] CONTAINER from a dealer or operator
4 of a redemption center [and shall reimburse the distributor] FOR the
5 [refund value of each such beverage container, as established by section
6 27-1005 of this title] DEPOSIT AND HANDLING FEE PAID BY THE DISTRIBUTOR.
7 [In addition, the deposit initiator shall reimburse such distributor for
8 each such beverage container the handling fee established under subdivi-
9 sion six of this section.] Without limiting the rights of the department
10 or any person, firm or corporation under this subdivision or any other
11 provision of this [section] TITLE, a distributor shall have a civil
12 right of action to enforce this subdivision, including, upon three days
13 notice, the right to apply for temporary and preliminary injunctive
14 relief against continuing violations, and until arrangements for
15 collection and return of empty containers or reimbursement of [such] THE
16 REDEEMING distributor for such deposits and handling fees are made.

17 8. It shall be the responsibility of the deposit initiator or distrib-
18 utor to provide to a dealer or redemption center a sufficient number of
19 bags, cartons, or other suitable containers, at no cost, for the packag-
20 ing, handling and pickup of empty beverage containers that are not
21 redeemed through a reverse vending machine. The bags, cartons, or
22 containers must be provided by the deposit initiator or distributor on a
23 schedule that allows the dealer or redemption center sufficient time to
24 sort the empty beverage containers prior to pick up by the deposit
25 initiator or distributor. In addition:

26 (a) When picking up empty beverage containers, a deposit initiator or
27 distributor shall not require a dealer or redemption center to load
28 their own bags, cartons or containers onto or into the deposit initi-
29 ator's or distributor's vehicle or vehicles or provide the staff or
30 equipment needed to do so. HOWEVER, WHERE PALLETS OR SKIDS, BAGS,
31 CARTONS OR CONTAINERS ARE READILY MOVABLE ONLY BY MEANS OF A FORKLIFT OR
32 SIMILAR EQUIPMENT, A DEPOSIT INITIATOR OR DISTRIBUTOR MAY REQUIRE A
33 DEALER OR REDEMPTION CENTER TO MOVE OR LOAD SUCH ITEMS AT NO COST USING
34 A FORKLIFT OR SIMILAR EQUIPMENT BELONGING TO THE DEALER OR REDEMPTION
35 CENTER.

36 (b) A deposit initiator or distributor [shall not] MAY require empty
37 containers to be counted at a location other than the redemption center
38 or dealer's place of business. The dealer or redemption center shall
39 have the right to be present at the count.

40 (c) A deposit initiator or distributor shall pick up empty beverage
41 containers from the dealer or redemption center at reasonable times and
42 intervals THAT SHALL ALSO TAKE INTO ACCOUNT A MINIMUM VOLUME OF CONTAIN-
43 ERS NECESSARY FOR SUCH A PICK UP as determined in rules or regulations
44 promulgated by the department OR ON A SCHEDULE MEETING THE MINIMUM
45 REQUIREMENTS OF SUCH REGULATIONS AND AGREED TO IN WRITING BY THE DEPOSIT
46 INITIATOR OR DISTRIBUTOR AND THE REDEMPTION CENTER.

47 11. [Notwithstanding the provisions of subdivision two of section
48 27-1009 of this title, a deposit initiator or distributor shall accept
49 and redeem beverage containers as provided in this title, if the dealer
50 or operator of a redemption center shall have accepted and paid the
51 refund value of such beverage containers.] NO PERSON SHALL PROGRAM,
52 TAMPER WITH, MISUSE, RENDER INACCURATE, OR CIRCUMVENT THE PROPER OPERA-
53 TION OF A REVERSE VENDING MACHINE TO ELICIT DEPOSIT MONIES WHEN NO
54 VALID, REDEEMABLE BEVERAGE CONTAINER HAS BEEN PLACED IN THE REVERSE
55 VENDING MACHINE.

1 S 4. Section 27-1009 of the environmental conservation law, as amended
2 by section 5 of part SS of chapter 59 of the laws of 2009, is amended to
3 read as follows:

4 S 27-1009. Refusal of acceptance.

5 1. A dealer or operator of a redemption center [may] SHALL refuse to
6 accept from a redeemer, and a deposit initiator or distributor [may]
7 SHALL refuse to accept from a dealer or operator of a redemption center
8 any empty beverage container which does not state thereon a refund value
9 as established by section 27-1005 and provided by section 27-1011 of
10 this title.

11 2. A dealer [or], operator of a redemption center, DISTRIBUTOR, OR
12 DEPOSIT INITIATOR may also refuse to accept any BEVERAGE CONTAINER WHICH
13 IS NOT REASONABLY CLEAN OR CONTAINS A SIGNIFICANT AMOUNT OF FOREIGN
14 MATERIAL, ANY broken bottle, ANY corroded, CRUSHED or dismembered [can]
15 CONTAINER, or any beverage container which [contains a significant
16 amount of foreign material,] IS OTHERWISE ALTERED SO THAT IT IS RENDERED
17 UNREDEEMABLE as determined in rules and regulations to be promulgated by
18 the commissioner. SUCH REFUSAL MUST OCCUR AT THE TIME THE BEVERAGE
19 CONTAINER IS TENDERED FOR REDEMPTION. NOTWITHSTANDING THE FOREGOING,
20 CONTAINERS PROCESSED THROUGH REVERSE VENDING MACHINES AUTHORIZED BY A
21 DISTRIBUTOR OR DEPOSIT INITIATOR, AS DOCUMENTED THROUGH REVERSE VENDING
22 MACHINE RECONCILIATION STATEMENTS OR OTHER REASONABLE DOCUMENTATION,
23 SHALL BE ACCEPTED BY A DISTRIBUTOR OR DEPOSIT INITIATOR.

24 S 5. Subdivision 1 of section 27-1011 of the environmental conserva-
25 tion law, as amended by chapter 149 of the laws of 1983, is amended to
26 read as follows:

27 1. a. Every beverage container sold or offered for sale in this state
28 [by a distributor or dealer] shall clearly indicate by permanently mark-
29 ing or embossing the container or by printing as part of the product
30 label the refund value of the container and the words "New York" or the
31 letters "NY"[; provided, however, in the case of private label beverages
32 such information may be embossed or printed on a label which is securely
33 or permanently affixed to the beverage container. Private label beverag-
34 es shall be defined as beverages purchased from a beverage manufacturer
35 in beverage containers bearing a brand name or trademark for sale at
36 retail directly by the owner or licensee of such brand name or trade-
37 mark; or through retail dealers affiliated with such owner or licensee
38 by a cooperative or franchise agreement].

39 b. Such embossing or permanent imprinting on the beverage container
40 shall be the responsibility of the person, firm or corporation which
41 bottles, cans or otherwise fills or packages a beverage container or a
42 brand owner for whose exclusive account private label beverages are
43 bottled, canned or otherwise packaged; provided, however, that the duly
44 authorized agent of any such person, firm or corporation may indicate
45 such refund value by a label securely affixed on any beverage container
46 containing beverages imported into the United States. PRIVATE LABEL
47 BEVERAGES SHALL BE DEFINED AS BEVERAGES PURCHASED FROM A BOTTLER IN
48 BEVERAGE CONTAINERS BEARING A BRAND NAME OR TRADEMARK FOR SALE AT RETAIL
49 DIRECTLY BY THE OWNER OR LICENSEE OF SUCH BRAND NAME OR TRADEMARK; OR
50 THROUGH RETAIL DEALERS AFFILIATED WITH SUCH OWNER OR LICENSEE BY A COOP-
51 ERATIVE OR FRANCHISE AGREEMENT.

52 S 6. Subdivision 5, paragraph b of subdivision 9 and subdivision 12 of
53 section 27-1012 of the environmental conservation law, as added by
54 section 8 of part SS of chapter 59 of the laws of 2009, are amended to
55 read as follows:

1 5. All monies collected or received by the department of taxation and
2 finance pursuant to this title shall be deposited to the credit of the
3 comptroller with such responsible banks, banking houses or trust compa-
4 nies as may be designated by the comptroller. Such deposits shall be
5 kept separate and apart from all other moneys in the possession of the
6 comptroller. The comptroller shall require adequate security from all
7 such depositories. Of the total revenue collected, the comptroller shall
8 retain the amount determined by the commissioner of taxation and finance
9 to be necessary for refunds out of which the comptroller must pay any
10 refunds to which a deposit initiator may be entitled. After reserving
11 the amount to pay refunds, the comptroller must, by the tenth day of
12 each month, pay into the state treasury to the credit of the general
13 fund the revenue deposited under this subdivision during the preceding
14 calendar month and remaining to the comptroller's credit on the last day
15 of that preceding month[.]; PROVIDED, HOWEVER, THAT, BEGINNING APRIL
16 FIRST, TWO THOUSAND THIRTEEN, AND ALL FISCAL YEARS THEREAFTER, FIFTEEN
17 MILLION DOLLARS PLUS ALL FUNDS RECEIVED FROM THE PAYMENTS DUE EACH
18 FISCAL YEAR PURSUANT TO SUBDIVISION FOUR OF THIS SECTION IN EXCESS OF
19 THE AMOUNT RECEIVED FROM APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
20 THIRTY-FIRST, TWO THOUSAND THIRTEEN, SHALL BE DEPOSITED TO THE CREDIT OF
21 THE ENVIRONMENTAL PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINE-
22 TY-TWO-S OF THE STATE FINANCE LAW.

23 b. Any deposit initiator who fails to FILE REPORTS, MAKE QUARTERLY
24 PAYMENTS OR maintain accounts or records pursuant to this section,
25 unless it is shown that such failure was due to reasonable cause and not
26 due to negligence or willful neglect, in addition to any other penalty
27 imposed by this title, shall be subject to a penalty to be assessed by
28 the commissioner of taxation and finance of not more than one thousand
29 dollars for each quarter during which such failure occurred, and an
30 additional penalty of not more than one thousand dollars for each quar-
31 ter such failure continues.

32 12. [Beginning on June first, two thousand nine each deposit initiator
33 shall register the container label of any beverage offered for sale in
34 the state on which it initiates a deposit. Any such registered container
35 label shall bear a universal product code. Such universal product code
36 shall be New York state specific, in order to identify the beverage
37 container as offered for sale exclusively in New York state, and as a
38 means of preventing illegal redemption of beverage containers purchased
39 out-of-state. Registration must be on forms as prescribed by the depart-
40 ment and must include the universal product code for each combination of
41 beverage and container manufactured. The commissioner may require that
42 such forms be filed electronically. The deposit initiator shall renew a
43 label registration whenever that label is revised by altering the
44 universal product code or whenever the container on which it appears is
45 changed in size, composition or glass color.] A. EACH DEPOSIT INITIATOR
46 SHALL PROVIDE A REPORT TO THE DEPARTMENT DESCRIBING ALL THE TYPES OF
47 BEVERAGE CONTAINERS ON WHICH IT INITIATES DEPOSITS. THE REPORT SHALL
48 INCLUDE THE PRODUCT NAME, TYPE OF BEVERAGE, SIZE AND COMPOSITION OF THE
49 BEVERAGE CONTAINER, UNIVERSAL PRODUCT CODE, AND ANY OTHER INFORMATION
50 THE DEPARTMENT MAY REQUIRE. UPON REQUEST, A DEPOSIT INITIATOR SHALL ALSO
51 PROVIDE TO THE DEPARTMENT A COPY OF THE CONTAINER LABEL OR A PICTURE OF
52 ANY BEVERAGE CONTAINER SOLD OR OFFERED FOR SALE IN THIS STATE ON WHICH
53 IT INITIATES A DEPOSIT. SUCH INFORMATION SHALL BE PROVIDED IN A FORM AS
54 PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE THAT SUCH
55 FORMS BE FILED ELECTRONICALLY.

1 B. A BOTTLER MAY PLACE ON A BEVERAGE CONTAINER A UNIVERSAL PRODUCT
2 CODE OR OTHER DISTINCTIVE MARKING THAT IS SPECIFIC TO THE STATE OR USED
3 ONLY IN THE STATE AND ANY OTHER STATES WITH LAWS SUBSTANTIALLY SIMILAR
4 TO THIS TITLE AS A MEANS OF PREVENTING REDEMPTION OF BEVERAGE CONTAINERS
5 ON WHICH A DEPOSIT WAS NOT PAID.

6 C. A BOTTLER OR DEPOSIT INITIATOR SHALL NOTIFY THE DEPARTMENT, IN A
7 FORM PRESCRIBED BY THE DEPARTMENT, WHENEVER A BEVERAGE CONTAINER OR
8 BEVERAGE CONTAINER LABEL IS REVISED BY ALTERING THE UNIVERSAL PRODUCT
9 CODE, OR WHENEVER THE CONTAINER ON WHICH A UNIVERSAL PRODUCT CODE
10 APPEARS IS CHANGED IN SIZE, COMPOSITION OR GLASS COLOR, OR WHENEVER THE
11 CONTAINER OR CONTAINER LABEL ON WHICH A UNIVERSAL PRODUCT CODE APPEARS
12 IS CHANGED TO INCLUDE A UNIVERSAL PRODUCT CODE THAT IS UNIQUE TO THE
13 STATE OR USED ONLY IN THE STATE AND ANY OTHER STATES WITH LAWS SUBSTAN-
14 Tially SIMILAR TO THIS TITLE.

15 S 7. Section 27-1013 of the environmental conservation law, as amended
16 by section 9 of part SS of chapter 59 of the laws of 2009, is amended to
17 read as follows:

18 S 27-1013. Redemption centers AND DEALERS.

19 The commissioner is hereby empowered to promulgate rules and regu-
20 lations governing (1) THE REGISTRATION OR PERMITTING OF REDEMPTION
21 CENTERS INCLUDING BUT NOT LIMITED TO CONDITIONS FOR GRANTING A REGISTRA-
22 TION OR PERMIT, GROUNDS FOR REVOCATION OF A REGISTRATION OR PERMIT AND
23 THE PROCESS FOR THE REVOCATION OF A REGISTRATION OR PERMIT; (2) the
24 circumstances in which DEPOSIT INITIATORS, dealers and distributors,
25 individually or collectively, are required to accept the return of empty
26 beverage containers, and make payment therefor; [(2)] (3) the sorting of
27 the containers which a deposit initiator or distributor may require of
28 dealers and redemption centers; [(3)] (4) the collection of returned
29 beverage containers by deposit initiators or distributors, including the
30 party to whom such expense is to be charged, the frequency of such pick
31 ups THAT SHALL ALSO ALLOW A SCHEDULE MEETING THE MINIMUM REQUIREMENTS OF
32 SUCH REGULATIONS AND AGREED TO IN WRITING BY THE DEPOSIT INITIATOR OR
33 DISTRIBUTOR AND THE REDEMPTION CENTER AND THAT SHALL ALSO TAKE INTO
34 ACCOUNT A MINIMUM VOLUME OF CONTAINERS NECESSARY FOR SUCH A PICK UP and
35 the payment for refunds and handling fees thereon; [(4)] (5) the right
36 of dealers to restrict or limit the number of containers redeemed, the
37 rules for redemption at the dealers' place of business, and the redemp-
38 tion of containers from a beverage for which sales have been discontin-
39 ued, and to issue REGISTRATIONS OR permits to persons, firms or corpo-
40 rations which establish redemption centers, subject to applicable
41 provisions of local and state laws, at which redeemers and dealers may
42 return empty beverage containers and receive payment of the refund value
43 of such beverage containers; (6) THE ASSIGNMENT OF A SPECIFIC REGISTRA-
44 TION OR PERMIT IDENTIFICATION NUMBER TO EACH REDEMPTION CENTER; SUCH
45 REGISTRATION OR PERMIT NUMBER, ALONG WITH THE NUMBER OF CONTAINERS
46 CONTAINED THEREIN, SHALL BE AFFIXED TO ANY BOX OR BAG PROFFERED BY A
47 REDEMPTION CENTER TO A DEPOSIT INITIATOR OR DISTRIBUTOR FOR REDEMPTION
48 IN A MANNER MANDATED BY THE COMMISSIONER; AND (7) THE OPERATION OF
49 MOBILE REDEMPTION CENTERS IN ORDER TO ENSURE THAT TO THE BEST EXTENT
50 PRACTICABLE CONTAINERS ARE NOT PROFFERED FOR REDEMPTION TO A DEPOSIT
51 INITIATOR OR DISTRIBUTOR OUTSIDE OF THE GEOGRAPHIC AREA WHERE SUCH
52 DEPOSIT INITIATOR SELLS CONTAINERS AND INITIATES DEPOSITS. No dealer or
53 distributor, as defined in section 27-1003 of this title, shall be
54 required to obtain a permit to operate a redemption center at the same
55 location as the dealer's or distributor's place of business. Operators
56 of such redemption centers shall receive payment of the refund value of

1 each beverage container from the appropriate deposit initiator or
2 distributor as provided under section 27-1007 of this title.

3 S 8. Section 27-1014 of the environmental conservation law, as amended
4 by section 10 of part SS of chapter 59 of the laws of 2009, is amended
5 to read as follows:

6 S 27-1014. Authority to promulgate rules and regulations.

7 In addition to the authority of the commissioner, under sections
8 27-1007, 27-1009 and 27-1013 of this title, the commissioner shall have
9 the power to promulgate rules and regulations necessary and appropriate
10 for the administration of this title AND TO PREVENT FRAUD.

11 S 9. Section 27-1015 of the environmental conservation law, as amended
12 by section 11 of part SS of chapter 59 of the laws of 2009, is amended
13 to read as follows:

14 S 27-1015. Violations.

15 1. [A violation of this title, except as otherwise provided in this
16 section and section 27-1012 of this title, shall be a public nuisance.
17 In addition, except] CIVIL AND ADMINISTRATIVE SANCTIONS. A. EXCEPT as
18 otherwise provided in this section and section 27-1012 of this title,
19 any person who [shall violate] VIOLATES any [provision] OF THE
20 PROVISIONS of, OR FAILS TO PERFORM A DUTY IMPOSED BY, THIS TITLE OR ANY
21 RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDI-
22 TION OF ANY REGISTRATION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL
23 DETERMINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO this title
24 shall be liable [to the state of New York] for a civil penalty of not
25 more than five hundred dollars FOR EACH VIOLATION, and an additional
26 civil penalty of not more than five hundred dollars for each day during
27 which each such violation continues. Any civil penalty may be assessed
28 BY THE COMMISSIONER following a hearing or opportunity to be heard
29 PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS CHAPTER OR BY THE
30 COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS
31 CHAPTER. IN ADDITION, SUCH PERSON MAY BY SIMILAR PROCESS BE ENJOINED
32 FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRATION ISSUED TO
33 SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING RENEWAL APPLICATION
34 DENIED.

35 [2. Any] B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF
36 TAXATION AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY
37 distributor or deposit initiator who violates any provision of this
38 title, [except as provided in section 27-1012 of this title,] OR FAILS
39 TO PERFORM A DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR REGULATION
40 PROMULGATED PURSUANT THERETO, OR ANY TERM OR CONDITION OF ANY REGISTRA-
41 TION OR PERMIT ISSUED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
42 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE shall be liable
43 [to the state of New York] for a civil penalty of not more than one
44 thousand dollars FOR EACH VIOLATION, and an additional civil penalty of
45 not more than one thousand dollars for each day during which each such
46 violation continues. Any civil penalty may be assessed BY THE COMMIS-
47 SIONER following a hearing or opportunity to be heard PURSUANT TO THE
48 PROVISIONS OF SECTION 71-1709 OF THIS CHAPTER, OR BY THE COURT IN ANY
49 ACTION OR PROCEEDING PURSUANT TO SECTION 71-2727 OF THIS CHAPTER. IN
50 ADDITION, SUCH DEPOSIT INITIATOR OR DISTRIBUTOR MAY BY SIMILAR PROCESS
51 BE ENJOINED FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRA-
52 TION ISSUED TO SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING
53 RENEWAL APPLICATION DENIED.

54 2. CRIMINAL SANCTIONS. A. ANY PERSON WHO, HAVING ANY OF THE CULPABLE
55 MENTAL STATES DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES ANY
56 PROVISION OF OR WHO FAILS TO PERFORM ANY DUTY IMPOSED BY THIS TITLE, OR

1 ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETER-
2 MINATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL
3 BE GUILTY OF A VIOLATION AND, UPON CONVICTION, SHALL BE PUNISHED BY A
4 FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS FOR EACH VIOLATION; EACH DAY
5 ON WHICH SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION;
6 AND FOR EACH SUCH VIOLATION THE PERSON SHALL BE SUBJECT, UPON
7 CONVICTION, TO IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR TO A FINE
8 OF NOT MORE THAN FIVE HUNDRED DOLLARS, OR TO BOTH IMPRISONMENT AND FINE.

9 B. IN ADDITION TO ANY PENALTIES IMPOSED BY THE DEPARTMENT OF TAXATION
10 AND FINANCE AS PROVIDED IN SECTION 27-1012 OF THIS TITLE, ANY DISTRIBUTU-
11 TOR OR DEPOSIT INITIATOR WHO, HAVING ANY OF THE CULPABLE MENTAL STATES
12 DEFINED IN SECTION 15.05 OF THE PENAL LAW, VIOLATES ANY PROVISION OF OR
13 WHO FAILS TO PERFORM ANY DUTY IMPOSED BY THIS TITLE, OR ANY RULE OR
14 REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR
15 ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF
16 A VIOLATION AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT
17 MORE THAN ONE THOUSAND DOLLARS FOR EACH VIOLATION; EACH DAY ON WHICH
18 SUCH VIOLATION OCCURS SHALL CONSTITUTE A SEPARATE VIOLATION; AND FOR
19 EACH SUCH VIOLATION THE PERSON SHALL BE SUBJECT, UPON CONVICTION, TO
20 IMPRISONMENT FOR NOT MORE THAN FIFTEEN DAYS OR TO A FINE OF NOT MORE
21 THAN ONE THOUSAND DOLLARS, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINE.

22 [3.] C. It shall be unlawful for [a distributor or deposit initiator]
23 ANY PERSON, acting alone or aided by another, to return any empty bever-
24 age container to a dealer or redemption center for its refund value if
25 [the] A distributor or deposit initiator had previously accepted such
26 beverage container from any dealer or operator of a redemption center,
27 OR IF SUCH CONTAINER WAS PREVIOUSLY ACCEPTED BY A REVERSE VENDING
28 MACHINE. A violation of this [subdivision] PARAGRAPH shall be a misde-
29 meanor punishable by a fine of not less than five hundred dollars nor
30 more than one thousand dollars and an amount equal to two times the
31 amount of money received as a result of such violation, OR IMPRISONMENT
32 FOR NOT MORE THAN ONE YEAR, OR TO BOTH SUCH IMPRISONMENT AND SUCH FINES.

33 D. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, ANY PERSON
34 WHO VIOLATES SUBDIVISION ELEVEN OF SECTION 27-1007 OF THIS TITLE, OR ANY
35 RULE OR REGULATION PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMI-
36 NATION OR ORDER OF THE COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE
37 GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED BY A
38 FINE OF NOT MORE THAN ONE THOUSAND DOLLARS PER DAY OF VIOLATION, OR BY
39 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRI-
40 SONMENT.

41 E. IN ADDITION TO ANY OTHER PENALTY PROVIDED BY THIS TITLE, ANY DEAL-
42 ER, DISTRIBUTOR OR DEPOSIT INITIATOR, WHO KNOWINGLY OR INTENTIONALLY
43 VIOLATES ANY PROVISION OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY
44 SECTION 27-1005 OR 27-1012 OF THIS TITLE, OR ANY RULE OR REGULATION
45 PROMULGATED PURSUANT THERETO, OR ANY FINAL DETERMINATION OR ORDER OF THE
46 COMMISSIONER MADE PURSUANT TO THIS TITLE SHALL BE GUILTY OF A MISDEMEA-
47 NOR AND, UPON CONVICTION, SHALL BE PUNISHED BY A FINE OF NOT MORE THAN
48 ONE THOUSAND DOLLARS PER DAY OF VIOLATION, OR BY IMPRISONMENT FOR NOT
49 MORE THAN ONE YEAR, OR BY BOTH SUCH FINE AND IMPRISONMENT.

50 [4.] 3. Any person who [willfully] tenders to a dealer, distributor,
51 redemption center or deposit initiator more than forty-eight empty
52 beverage containers for which such person knows or should reasonably
53 know that no deposit was paid in New York state may be assessed [by the
54 department] a civil penalty of up to one hundred dollars for each
55 container or up to twenty-five thousand dollars for each such tender of
56 containers. At each location where a person tenders containers for

1 redemption, dealers and redemption centers must conspicuously display a
2 sign in letters that are at least one inch in height with the following
3 information: "WARNING: Persons tendering for redemption containers on
4 which a deposit was never paid in this state may be subject to a civil
5 penalty of up to one hundred dollars per container or up to twenty-five
6 thousand dollars for each such tender of containers." Any civil penalty
7 may be assessed BY THE COMMISSIONER following a hearing or opportunity
8 to be heard PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS CHAP-
9 TER, OR BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO SECTION
10 71-2727 OF THIS CHAPTER. IN ADDITION, SUCH PERSON MAY BY SIMILAR PROCESS
11 BE ENJOINED FROM CONTINUING SUCH VIOLATION AND ANY PERMIT OR REGISTRA-
12 TION ISSUED TO SUCH PERSON MAY BE REVOKED OR SUSPENDED OR A PENDING
13 RENEWAL APPLICATION DENIED.

14 [5.] 4. A. The department, the department of agriculture and markets,
15 the department of taxation and finance and the attorney general are
16 hereby authorized to enforce the provisions of this title AND ALL MONIES
17 COLLECTED SHALL BE DEPOSITED TO THE CREDIT OF THE ENVIRONMENTAL
18 PROTECTION FUND ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE
19 STATE FINANCE LAW. In addition, the provisions of section 27-1005 of
20 this title and subdivisions one, two, three, four, five, ten and eleven
21 of section 27-1007 of this title may be enforced by a county, city, town
22 or village, and the local legislative body thereof may adopt local laws,
23 ordinances or regulations consistent with this title providing for the
24 enforcement of such provisions AND ALL MONIES COLLECTED BY THE ENFORCING
25 COUNTY, CITY, TOWN OR VILLAGE AS FINES OR PENALTIES PURSUANT TO THIS
26 SECTION SHALL BE PAYABLE TO AND BE THE PROPERTY OF THE COUNTY, CITY,
27 TOWN OR VILLAGE.

28 B. IN ADDITION, A VIOLATION OF THIS TITLE, EXCEPT AS OTHERWISE
29 PROVIDED IN THIS SECTION, SHALL BE A PUBLIC NUISANCE, AND WITHOUT LIMIT-
30 ING THE RIGHTS OF THE DEPARTMENT, OR ANY PERSON, FIRM OR CORPORATION
31 UNDER THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS SECTION, A DEALER,
32 OWNER OR OPERATOR OF A REDEMPTION CENTER, DISTRIBUTOR, OR DEPOSIT INITI-
33 ATOR SHALL HAVE A CIVIL RIGHT OF ACTION TO ENFORCE THE PROVISIONS OF
34 SECTION 27-1009 OF THIS TITLE AND SUBDIVISIONS FOUR, FIVE, SIX, AND
35 EIGHT OF SECTION 27-1007 OF THIS TITLE.

36 S 10. Section 27-1017 of the environmental conservation law is
37 REPEALED.

38 S 11. Subdivision 3 of section 92-s of the state finance law, as
39 amended by section 2 of part T of chapter 59 of the laws of 2009, is
40 amended to read as follows:

41 3. Such fund shall consist of the amount of revenue collected within
42 the state from the amount of revenue, interest and penalties deposited
43 pursuant to section fourteen hundred twenty-one of the tax law, the
44 amount of fees and penalties received from easements or leases pursuant
45 to subdivision fourteen of section seventy-five of the public lands law
46 and the money received as annual service charges pursuant to section
47 four hundred four-1 of the vehicle and traffic law, all moneys required
48 to be deposited therein from the contingency reserve fund pursuant to
49 section two hundred ninety-four of chapter fifty-seven of the laws of
50 nineteen hundred ninety-three, all moneys required to be deposited
51 pursuant to section thirteen of chapter six hundred ten of the laws of
52 nineteen hundred ninety-three, repayments of loans made pursuant to
53 section 54-0511 of the environmental conservation law, all moneys to be
54 deposited from the Northville settlement pursuant to section one hundred
55 twenty-four of chapter three hundred nine of the laws of nineteen
56 hundred ninety-six, provided however, that such moneys shall only be

1 used for the cost of the purchase of private lands in the core area of
2 the central Suffolk pine barrens pursuant to a consent order with the
3 Northville industries signed on October thirteenth, nineteen hundred
4 ninety-four and the related resource restoration and replacement plan,
5 the amount of penalties required to be deposited therein by section
6 71-2724 of the environmental conservation law, all moneys required to be
7 deposited pursuant to article thirty-three of the environmental conser-
8 vation law, all fees collected pursuant to subdivision eight of section
9 70-0117 of the environmental conservation law, [as added by a chapter of
10 the laws of two thousand nine,] all moneys collected pursuant to title
11 thirty-three of article fifteen of the environmental conservation law,
12 [as added by a chapter of the laws of two thousand nine] BEGINNING WITH
13 THE FISCAL YEAR COMMENCING ON APRIL FIRST, TWO THOUSAND THIRTEEN, AND
14 ALL FISCAL YEARS THEREAFTER, FIFTEEN MILLION DOLLARS PLUS ALL FUNDS
15 RECEIVED BY THE STATE EACH FISCAL YEAR IN EXCESS OF THE AMOUNT RECEIVED
16 FROM APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO
17 THOUSAND THIRTEEN, FROM THE PAYMENTS COLLECTED PURSUANT TO SUBDIVISION
18 FOUR OF SECTION 27-1012 OF THE ENVIRONMENTAL CONSERVATION LAW, and all
19 other moneys credited or transferred thereto from any other fund or
20 source pursuant to law. All such revenue shall be initially deposited
21 into the environmental protection fund, for application as provided in
22 subdivision five of this section.

23 S 12. This act shall take effect immediately and shall be deemed to
24 have been in full force and effect on and after April 1, 2013.

25

PART G

26 Section 1. Subdivisions 1 and 2 of section 27-1905 of the environ-
27 mental conservation law, as amended by section 1 of part DD of chapter
28 59 of the laws of 2010, are amended to read as follows:

29 1. [Until December thirty-first, two thousand thirteen, accept] ACCEPT
30 from a customer, waste tires of approximately the same size and in a
31 quantity equal to the number of new tires purchased or installed by the
32 customer; and

33 2. [Until December thirty-first, two thousand thirteen, post] POST
34 written notice in a prominent location, which must be at least eight and
35 one-half inches by fourteen inches in size and contain the following
36 language:

37 "New York State law requires us to accept and manage waste tires from
38 vehicles in exchange for an equal number of new tires that we sell or
39 install. Tire retailers are required to charge a separate and distinct
40 waste tire management and recycling fee of \$2.50 for each new tire sold.

41 The retailers in addition are authorized, at their sole discretion, to
42 pass on waste tire management and recycling costs to tire purchasers.
43 Such costs may be included as part of the advertised price of the new
44 tire, or charged as a separate per-tire charge in an amount not to
45 exceed \$2.50 on each new tire sold."

46 The written notice shall also contain one of the following statements
47 at the end of the aforementioned language and as part of the notice,
48 which shall accurately indicate the manner in which the tire service
49 charges for waste tire management and recycling costs, and the amount of
50 any charges that are separately invoiced for such costs:

51 "Our waste tire management and recycling costs are included in the
52 advertised price of each new tire.", or

1 "We charge a separate per-tire charge of \$_____ on each new tire sold
2 that will be listed on your invoice to cover our waste tire management
3 and recycling costs."

4 S 2. Subdivisions 1, 2 and 3 and paragraph (a) of subdivision 6 of
5 section 27-1913 of the environmental conservation law, subdivisions 1,
6 2, the opening paragraph of subdivision 3 and paragraph (a) of subdivi-
7 sion 6 as amended by section 4 of part DD of chapter 59 of the laws of
8 2010 and subdivision 3 as amended by section 2 of part E1 of chapter 63
9 of the laws of 2003, are amended to read as follows:

10 1. [Until December thirty-first, two thousand thirteen, a] A waste
11 tire management and recycling fee of two dollars and fifty cents shall
12 be charged on each new tire sold. The fee shall be paid by the purchaser
13 to the tire service at the time the new tire or new motor vehicle is
14 purchased.

15 The waste tire management and recycling fee does not apply to:

16 (a) recapped or resold tires;

17 (b) mail-order sales; or

18 (c) the sale of new motor vehicle tires to a person solely for the
19 purpose of resale provided the subsequent retail sale in this state is
20 subject to such fee.

21 2. [Until December thirty-first, two thousand thirteen, the] THE tire
22 service shall collect the waste tire management and recycling fee from
23 the purchaser at the time of the sale and shall [remit] PAY such fee to
24 the department of taxation and finance with the quarterly [report]
25 RETURN filed pursuant to subdivision three of this section. THE COMMIS-
26 SIONER OF TAXATION AND FINANCE MAY REQUIRE THAT THE TIRE SERVICE PAY THE
27 FEE ELECTRONICALLY.

28 (a) The fee imposed shall be stated as an invoice item separate and
29 distinct from the selling price of the tire.

30 (b) The tire service shall be entitled to retain an allowance of twen-
31 ty-five cents per tire from fees collected.

32 3. [Until March thirty-first, two thousand fourteen, each] EACH tire
33 service maintaining a place of business in this state shall make a
34 return to the department of taxation and finance on a quarterly basis[,
35 with the return for December, January, and February being due on or
36 before the immediately following March thirty-first; the return for
37 March, April, and May being due on or before the immediately following
38 June thirtieth; the return for June, July, and August being due on or
39 before the immediately following September thirtieth; and the return for
40 September, October, and November being due on or before the immediately
41 following December thirty-first] IN THE FORM AND MANNER PRESCRIBED BY
42 THE COMMISSIONER OF TAXATION AND FINANCE. THE COMMISSIONER OF TAXATION
43 AND FINANCE MAY REQUIRE SUCH RETURNS TO BE FILED ELECTRONICALLY. THE
44 QUARTERLY RETURNS REQUIRED BY THIS SUBDIVISION SHALL BE FILED FOR THE
45 QUARTERLY PERIODS ENDING ON THE LAST DAY OF FEBRUARY, MAY, AUGUST AND
46 NOVEMBER OF EACH YEAR, AND EACH SUCH RETURN SHALL BE FILED WITHIN TWENTY
47 DAYS AFTER THE END OF THE QUARTERLY PERIOD COVERED THEREBY.

48 (a) Each return shall include:

49 (i) the name of the tire service;

50 (ii) the address of the tire service's principal place of business and
51 the address of the principal place of business (if that is a different
52 address) from which the tire service engages in the business of making
53 retail sales of tires;

54 (iii) the name and signature of the person preparing the return;

(iv) the total number of new tires sold at retail for the preceding quarter and the total number of new tires placed on motor vehicles prior to original retail sale;

(v) the amount of waste tire management and recycling fees due; and

(vi) such other reasonable information as the department of taxation and finance may require.

(b) Copies of each [report] RETURN shall be retained by the tire service for three years.

If a tire service ceases business, it shall file a final return and [remit] PAY all fees due under this title [with] TO the department of taxation and finance not more than one month after discontinuing that business.

(a) [Until December thirty-first, two thousand thirteen, any] ANY additional waste tire management and recycling costs of the tire service in excess of the amount authorized to be retained pursuant to paragraph (b) of subdivision two of this section may be included in the published selling price of the new tire, or charged as a separate per-tire charge on each new tire sold. When such costs are charged as a separate per-tire charge: (i) such charge shall be stated as an invoice item separate and distinct from the selling price of the tire; (ii) the invoice shall state that the charge is imposed at the sole discretion of the tire service; and (iii) the amount of such charge shall reflect the actual cost to the tire service for the management and recycling of waste tires accepted by the tire service pursuant to section 27-1905 of this title, provided however, that in no event shall such charge exceed two dollars and fifty cents on each new tire sold.

S 3. This act shall take effect immediately, and shall apply to the quarterly periods provided for in the opening paragraph of subdivision three of section 27-1913 of the environmental conservation law, as amended by section two of this act, beginning on or after the date this act shall have become a law.

PART H

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part R of chapter 58 of the laws of 2012, is amended to read as follows:

S 2. This act shall take effect immediately [provided, however, that section one of this act shall expire on July 1, 2013, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal].

S 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2013.

PART I

Section 1. Section 2 of part BB of chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements is amended to read as follows:

1 S 2. This act shall take effect immediately and shall expire and be
2 deemed repealed April 1, [2013] 2015.

3 S 2. This act shall take effect immediately and shall be deemed to
4 have been in effect on and after April 1, 2013.

5 PART J

6 Intentionally omitted.

7 PART K

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

12 S 2. This act shall take effect immediately and shall be deemed to
13 have been in full force and effect on and after April 1, 2013.

14 PART L

15 Section 1. Expenditures of moneys appropriated in a chapter of the
16 laws of 2013 to the energy research and development authority, under the
17 research, development and demonstration program, from the special reven-
18 ue funds - other/state operations, miscellaneous special revenue fund -
19 339, energy research and planning account, and special revenue funds -
20 other/aid to localities, miscellaneous special revenue fund - 339, ener-
21 gy research and planning account shall be subject to the provisions of
22 this section. Notwithstanding the provisions of subdivision 4-a of
23 section 18-a of the public service law, all moneys committed or expended
24 shall be reimbursed by assessment against gas corporations and electric
25 corporations as defined in section 2 of the public service law, and the
26 total amount which may be charged to any gas corporation and any elec-
27 tric corporation shall not exceed one cent per one thousand cubic feet
28 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
29 corporations in their intrastate utility operations in calendar year
30 2011. Such amounts shall be excluded from the general assessment
31 provisions of subdivision 2 of section 18-a of the public service law,
32 but shall be billed and paid in the manner set forth in such subdivision
33 and upon receipt shall be paid to the state comptroller for deposit in
34 the state treasury for credit to the miscellaneous special revenue fund.
35 The director of the budget shall not issue a certificate of approval
36 with respect to the commitment and expenditure of moneys hereby appro-
37 priated until the chair of such authority shall have submitted, and the
38 director of the budget shall have approved, a comprehensive financial
39 plan encompassing all moneys available to and all anticipated commit-
40 ments and expenditures by such authority from any source for the oper-
41 ations of such authority. Copies of the approved comprehensive financial
42 plan shall be immediately submitted by the director of the budget to the
43 chairs and secretaries of the legislative fiscal committees.

44 S 2. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2013.

46 PART M

47 Section 1. Notwithstanding any other law, rule or regulation to the
48 contrary, expenses of the department of health public service education

1 program incurred pursuant to appropriations from the cable television
2 account of the state miscellaneous special revenue funds shall be deemed
3 expenses of the department of public service.

4 S 2. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2013.

6 PART N

7 Section 1. Paragraph (a) of subdivision 6 of section 18-a of the
8 public service law, as added by section 4 of part NN of chapter 59 of
9 the laws of 2009, is amended to read as follows:

10 (a) Notwithstanding any provision of law to the contrary, and subject
11 to the exceptions provided for in paragraph (b) of this subdivision, for
12 the state fiscal year beginning on April first, two thousand nine and
13 [four] NINE state fiscal years thereafter, a temporary annual assessment
14 (hereinafter "temporary state energy and utility service conservation
15 assessment") is hereby imposed on public utility companies (including
16 for the purposes of this subdivision municipalities other than munici-
17 palities as defined in section eighty-nine-1 of this chapter), corpo-
18 rations (including for purposes of this subdivision the Long Island
19 power authority), and persons subject to the commission's regulation
20 (hereinafter such public utility companies, corporations, and persons
21 are referred to collectively as the "utility entities") to encourage the
22 conservation of energy and other resources provided through utility
23 entities, to be assessed in the manner provided in this subdivision;
24 provided, however, that such assessment shall not be imposed upon tele-
25 phone corporations as defined in subdivision seventeen of section two of
26 this article.

27 S 2. Section 6 of part NN of chapter 59 of the laws of 2009, amending
28 the public service law relating to financing the operations of the
29 department of public service, the public service commission, department
30 support and energy management services provided by other state agencies,
31 increasing the utility assessment cap and the minimum threshold for
32 collection thereunder, and establishing a temporary state energy and
33 utility service conservation assessment and providing for the collection
34 thereof, is amended to read as follows:

35 S 6. This act shall take effect immediately; provided, however, that
36 subdivision 6 of section 18-a of the public service law, as added by
37 section four of this act shall take effect April 1, 2009 and shall
38 expire and be deemed repealed March 31, [2014] 2019; and provided,
39 further, that if section four of this act shall become law after April
40 1, 2009, it shall take effect immediately and shall be deemed to have
41 been in full force and effect on and after April 1, 2009.

42 S 3. This act shall take effect immediately and shall be deemed to
43 have been in full force and effect on and after April 1, 2013; provided,
44 however, that the amendments to subdivision 6 of section 18-a of the
45 public service law made by section one of this act shall not affect the
46 repeal of such subdivision and shall be deemed to be repealed therewith.

47 PART O

48 Section 1. Sections 24 and 25 of the public service law are REPEALED
49 and a new section 24 is added to read as follows:

50 S 24. ADMINISTRATIVE SANCTIONS; RECOVERY OF PENALTIES. 1. EVERY PUBLIC
51 UTILITY COMPANY, CORPORATION OR PERSON AND THE OFFICERS, AGENTS AND
52 EMPLOYEES THEREOF SHALL ADHERE TO EVERY PROVISION OF THIS CHAPTER AND

1 EVERY ORDER OR REGULATION ADOPTED UNDER AUTHORITY OF THIS CHAPTER SO
2 LONG AS THE SAME SHALL BE IN FORCE.

3 2. (A) THE COMMISSION SHALL HAVE THE AUTHORITY TO ASSESS A CIVIL
4 PENALTY AGAINST A PUBLIC UTILITY COMPANY, CORPORATION, OR PERSON AND THE
5 OFFICERS, AGENTS AND EMPLOYEES THEREOF SUBJECT TO THE JURISDICTION,
6 SUPERVISION, OR REGULATION PURSUANT TO THIS CHAPTER IN AN AMOUNT AS SET
7 FORTH IN THIS SECTION. IN DETERMINING THE AMOUNT OF ANY PENALTY TO BE
8 ASSESSED PURSUANT TO THIS SECTION, THE COMMISSION SHALL CONSIDER: (I)
9 THE SERIOUSNESS OF THE VIOLATION FOR WHICH A PENALTY IS SOUGHT; (II) THE
10 NATURE AND EXTENT OF ANY PREVIOUS VIOLATIONS FOR WHICH PENALTIES HAVE
11 BEEN ASSESSED AGAINST THE PUBLIC UTILITY COMPANY, CORPORATION OR PERSON;
12 (III) THE GROSS REVENUES AND FINANCIAL STATUS OF THE PUBLIC UTILITY
13 COMPANY, CORPORATION OR PERSON; AND (IV) SUCH OTHER FACTORS AS THE
14 COMMISSION MAY DEEM APPROPRIATE AND RELEVANT. THE REMEDIES PROVIDED BY
15 THIS SUBDIVISION ARE IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN LAW.

16 (B) WHENEVER THE COMMISSION HAS REASON TO BELIEVE THAT A PUBLIC UTILI-
17 TY COMPANY, CORPORATION OR PERSON AND SUCH OFFICERS, AGENTS AND EMPLOY-
18 EES THEREOF MAY BE SUBJECT TO IMPOSITION OF A CIVIL PENALTY AS SET FORTH
19 IN THIS SUBDIVISION, IT SHALL NOTIFY SUCH PUBLIC UTILITY COMPANY, CORPO-
20 RATION OR PERSON. SUCH NOTICE SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO
21 (I) THE DATE AND A BRIEF DESCRIPTION OF THE FACTS AND NATURE OF EACH ACT
22 OR FAILURE TO ACT FOR WHICH SUCH PENALTY IS PROPOSED; (II) A LIST OF
23 EACH STATUTE, REGULATION OR ORDER THAT THE COMMISSION ALLEGES HAS BEEN
24 VIOLATED; (III) THE AMOUNT OF EACH PENALTY THAT THE COMMISSION PROPOSES
25 TO ASSESS; AND (IV) THE OPTION TO REQUEST A HEARING TO DEMONSTRATE WHY
26 THE PROPOSED PENALTY OR PENALTIES SHOULD NOT BE ASSESSED AGAINST SUCH
27 PUBLIC UTILITY COMPANY, CORPORATION, OR SUCH PERSON.

28 3. ANY PUBLIC UTILITY COMPANY OR CORPORATION THAT VIOLATES A PROVISION
29 OF THIS CHAPTER, REGULATION OR AN ORDER ADOPTED UNDER AUTHORITY OF THIS
30 CHAPTER SO LONG AS THE SAME SHALL BE IN FORCE, OR WHO FAILS TO PROVIDE
31 SAFE AND ADEQUATE SERVICE SHALL FORFEIT A SUM NOT EXCEEDING THE GREATER
32 OF ONE HUNDRED THOUSAND DOLLARS OR TWO ONE-HUNDREDTHS OF ONE PERCENT OF
33 THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE UTILITY, CONSTITUT-
34 ING A CIVIL PENALTY FOR EACH AND EVERY OFFENSE AND, IN THE CASE OF A
35 CONTINUING VIOLATION, EACH DAY SHALL BE DEEMED A SEPARATE AND DISTINCT
36 OFFENSE.

37 4. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS
38 SECTION, ANY SUCH PUBLIC UTILITY COMPANY OR CORPORATION THAT VIOLATES A
39 PROVISION OF THIS CHAPTER, OR AN ORDER OR REGULATION ADOPTED UNDER THE
40 AUTHORITY OF THIS CHAPTER SPECIFICALLY FOR THE PROTECTION OF HUMAN SAFE-
41 TY OR PREVENTION OF SIGNIFICANT DAMAGE TO REAL PROPERTY, INCLUDING, BUT
42 NOT LIMITED TO, THE COMMISSION'S CODE OF GAS SAFETY REGULATIONS SHALL,
43 IF IT IS DETERMINED BY THE COMMISSION THAT SUCH SAFETY VIOLATION CAUSED
44 OR CONSTITUTED A CONTRIBUTING FACTOR IN BRINGING ABOUT: (A) A DEATH OR
45 PERSONAL INJURY; OR (B) DAMAGE TO REAL PROPERTY IN EXCESS OF FIFTY THOU-
46 SAND DOLLARS, FORFEIT A SUM NOT TO EXCEED THE GREATER OF:

47 (I) TWO HUNDRED FIFTY THOUSAND DOLLARS OR THREE ONE-HUNDREDTHS OF ONE
48 PERCENT OF THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE UTILITY,
49 WHICHEVER IS GREATER, CONSTITUTING A CIVIL PENALTY FOR EACH SEPARATE AND
50 DISTINCT OFFENSE; PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS PARA-
51 GRAPH, EACH DAY OF A CONTINUING VIOLATION SHALL NOT BE DEEMED A SEPARATE
52 AND DISTINCT OFFENSE. THE TOTAL PERIOD OF A CONTINUING VIOLATION, AS
53 WELL AS EVERY DISTINCT VIOLATION, SHALL BE SIMILARLY TREATED AS A SEPA-
54 RATE AND DISTINCT OFFENSE FOR PURPOSES OF THIS PARAGRAPH; OR

55 (II) THE MAXIMUM FORFEITURE DETERMINED IN ACCORDANCE WITH SUBDIVISION
56 THREE OF THIS SECTION.

1 5. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OR FOUR OF THIS
2 SECTION, A PUBLIC UTILITY COMPANY OR CORPORATION THAT VIOLATES A
3 PROVISION OF THIS CHAPTER, OR AN ORDER OR REGULATION ADOPTED UNDER
4 AUTHORITY OF THIS CHAPTER, DESIGNED TO PROTECT THE OVERALL RELIABILITY
5 AND CONTINUITY OF ELECTRIC SERVICE, INCLUDING BUT NOT LIMITED TO THE
6 RESTORATION OF ELECTRIC SERVICE FOLLOWING A MAJOR OUTAGE EVENT OR EMER-
7 GENCY, SHALL FORFEIT A SUM NOT TO EXCEED THE GREATER OF:

8 (A) FIVE HUNDRED THOUSAND DOLLARS OR FOUR ONE-HUNDREDTHS OF ONE
9 PERCENT OF THE ANNUAL INTRASTATE GROSS OPERATING REVENUE OF THE UTILITY,
10 WHICHEVER IS GREATER, CONSTITUTING A CIVIL PENALTY FOR EACH SEPARATE AND
11 DISTINCT OFFENSE; PROVIDED, HOWEVER, THAT FOR PURPOSES OF THIS PARAGRAPH
12 EACH DAY OF A CONTINUING VIOLATION SHALL NOT BE DEEMED A SEPARATE AND
13 DISTINCT OFFENSE. THE TOTAL PERIOD OF A CONTINUING VIOLATION, AS WELL AS
14 EVERY DISTINCT VIOLATION SHALL BE SIMILARLY TREATED AS A SEPARATE AND
15 DISTINCT OFFENSE FOR PURPOSES OF THIS PARAGRAPH; OR

16 (B) THE MAXIMUM FORFEITURE DETERMINED IN ACCORDANCE WITH SUBDIVISION
17 THREE OF THIS SECTION.

18 6. ANY OFFICER, AGENT, OR EMPLOYEE OF ANY CORPORATION DETERMINED BY
19 THE COMMISSION TO HAVE VIOLATED THE PROVISIONS OF SUBDIVISION THREE,
20 FOUR, OR FIVE OF THIS SECTION, AND WHO KNOWINGLY VIOLATES A PROVISION OF
21 THIS CHAPTER, REGULATION OR AN ORDER ADOPTED UNDER AUTHORITY OF THIS
22 CHAPTER SO LONG AS THE SAME SHALL BE IN FORCE, INCLUDING A FAILURE TO
23 PROVIDE SAFE AND ADEQUATE SERVICE, SHALL FORFEIT A SUM NOT TO EXCEED ONE
24 HUNDRED THOUSAND DOLLARS CONSTITUTING A CIVIL PENALTY FOR EACH AND EVERY
25 OFFENSE AND, IN THE CASE OF A CONTINUING VIOLATION, EACH DAY SHALL BE
26 DEEMED A SEPARATE AND DISTINCT OFFENSE.

27 7. ANY SUCH ASSESSMENT MAY BE COMPROMISED OR DISCONTINUED BY THE
28 COMMISSION. ALL MONEYS RECOVERED PURSUANT TO THIS SECTION, TOGETHER WITH
29 THE COSTS THEREOF, SHALL BE REMITTED TO, OR FOR THE BENEFIT OF, THE
30 RATEPAYERS IN A MANNER TO BE DETERMINED BY THE COMMISSION.

31 8. UPON A FAILURE BY A PUBLIC UTILITY COMPANY, CORPORATION, OR PERSON
32 TO REMIT ANY PENALTY ASSESSED BY THE COMMISSION PURSUANT TO THIS
33 SECTION, THE COMMISSION, THROUGH ITS COUNSEL, MAY INSTITUTE AN ACTION OR
34 SPECIAL PROCEEDING TO COLLECT THE PENALTY IN A COURT OF COMPETENT JURIS-
35 DICTION.

36 9. ANY PAYMENT MADE BY A PUBLIC UTILITY COMPANY, CORPORATION OR PERSON
37 AND THE OFFICERS, AGENTS AND EMPLOYEES THEREOF AS A RESULT OF AN ASSESS-
38 MENT AS PROVIDED IN THIS SECTION, AND THE COST OF LITIGATION AND INVES-
39 TIGATION RELATED TO ANY SUCH ASSESSMENT, SHALL NOT BE RECOVERABLE FROM
40 RATEPAYERS.

41 10. IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS CHAPTER RELAT-
42 ING TO PENALTIES, THE ACT OF ANY DIRECTOR, OFFICER, AGENT OR EMPLOYEE OF
43 A PUBLIC UTILITY COMPANY, CORPORATION OR PERSON ACTING WITHIN THE SCOPE
44 OF HIS OR HER OFFICIAL DUTIES OR EMPLOYMENT SHALL BE DEEMED TO BE THE
45 ACT OF SUCH PUBLIC UTILITY COMPANY OR CORPORATION.

46 S 2. Section 26 of the public service law is renumbered section 25.

47 S 3. Section 65 of the public service law is amended by adding two new
48 subdivisions 14 and 15 to read as follows:

49 14. IN CONJUNCTION WITH A MANAGEMENT AND OPERATIONS AUDIT UNDERTAKEN
50 PURSUANT TO SUBDIVISION NINETEEN OF SECTION SIXTY-SIX OF THIS ARTICLE OR
51 UPON ITS OWN MOTION, THE COMMISSION SHALL REVIEW THE CAPABILITY, INCLUD-
52 ING BUT NOT LIMITED TO, THE CAPABILITY TO IMPLEMENT EMERGENCY RESPONSE
53 PLANS AND RESTORATION, OF EACH GAS CORPORATION AND ELECTRIC CORPORATION
54 TO PROVIDE SAFE, ADEQUATE, AND RELIABLE SERVICE. UPON GOOD CAUSE SHOWN,
55 THE COMMISSION MAY DIRECT SUCH CORPORATION TO COMPLY WITH ADDITIONAL AND
56 MORE STRINGENT TERMS AND CONDITIONS OF SERVICE THAN EXISTED PRIOR TO THE

1 COMMENCEMENT OF THE MANAGEMENT AND OPERATIONS AUDIT, OR CAUSE SUCH
2 CORPORATION TO DIVEST SOME OR ALL OF ITS STATE-BASED UTILITY ASSETS,
3 INCLUDING FRANCHISE TERRITORIES, BASED UPON STANDARDS AND PROCEDURES
4 ESTABLISHED BY THE COMMISSION TO ENSURE CONTINUITY OF SAFE AND ADEQUATE
5 SERVICE, DUE PROCESS, AND FAIR AND JUST COMPENSATION; PROVIDED, HOWEVER,
6 THAT NOTHING IN THIS SUBDIVISION LIMITS THE COMMISSION'S AUTHORITY TO
7 UNDERTAKE THE ACTIONS SET FORTH PURSUANT TO SECTIONS TWENTY-FOUR AND
8 TWENTY-FIVE OF THIS CHAPTER. IN THE CASE WHERE THE COMMISSION DIRECTS A
9 FULL OR PARTIAL DIVESTMENT OF A CORPORATION'S ASSETS, THE COMMISSION
10 SHALL FIRST PROCEED IN SUCH MANNER AS TO FACILITATE THE VOLUNTARY TRANS-
11 FER OF SUCH ASSETS.

12 15. THE CHIEF EXECUTIVE OFFICER OF EACH GAS CORPORATION AND ELECTRIC
13 CORPORATION SHALL CERTIFY TO THE COMMISSION ON OR BEFORE MARCH FIFTEENTH
14 OF EACH YEAR THAT SUCH CORPORATION IS IN COMPLIANCE WITH THE REQUIRE-
15 MENTS OF THIS CHAPTER AND ANY RULES, REGULATIONS, ORDERS AND PROCEDURES
16 ADOPTED THERETO, INCLUDING THE OBLIGATION THAT SUCH CORPORATION PROVIDE
17 SAFE AND ADEQUATE SERVICE.

18 S 4. Subdivisions 19 and 21 of section 66 of the public service law,
19 subdivision 19 as added by chapter 556 of the laws of 1976 and the clos-
20 ing paragraph as added by chapter 586 of the laws of 1986 and subdivi-
21 sion 21 as added by chapter 718 of the laws of 1980, are amended and a
22 new subdivision 1-a is added to read as follows:

23 1-A. REVIEW THE ANNUAL CAPITAL EXPENDITURE OF EACH GAS OR ELECTRIC
24 CORPORATION AND MAY ORDER SUCH IMPROVEMENT IN THE MANUFACTURE, CONVEY-
25 ING, TRANSPORTATION, DISTRIBUTION OR SUPPLY OF GAS, IN THE MANUFACTURE,
26 TRANSMISSION OR SUPPLY OF ELECTRICITY, OR IN THE METHODS EMPLOYED BY
27 SUCH CORPORATION AS IN THE COMMISSION'S JUDGMENT IS ADEQUATE, JUST AND
28 REASONABLE.

29 19. (A) The commission shall have power to provide for management and
30 operations audits of gas corporations and electric corporations. Such
31 audits shall be performed at least once every five years for combination
32 gas and electric companies, as well as for straight gas corporations
33 having annual gross revenues in excess of two hundred million dollars.
34 The audit shall include, but not be limited to, an investigation of the
35 company's construction program planning in relation to the needs of its
36 customers for reliable service [and], an evaluation of the efficiency of
37 the company's operations, RECOMMENDATIONS WITH RESPECT TO SAME, AND THE
38 TIMING WITH RESPECT TO THE IMPLEMENTATION OF SUCH RECOMMENDATIONS. The
39 commission shall have discretion to have such audits performed by its
40 staff, or by independent auditors.

41 In every case in which the commission chooses to have the audit
42 provided for in this subdivision OR PURSUANT TO SUBDIVISION FOURTEEN OF
43 SECTION SIXTY-FIVE OF THIS ARTICLE performed by independent auditors, it
44 shall have authority to select the auditors, and to require the company
45 being audited to enter into a contract with the auditors providing for
46 their payment by the company. Such contract shall provide further that
47 the auditors shall work for and under the direction of the commission
48 according to such terms as the commission may determine are necessary
49 and reasonable.

50 [The commission shall have authority to direct the company to imple-
51 ment any recommendations resulting from such audits that it finds to be
52 necessary and reasonable.]

53 (B) EACH GAS AND ELECTRIC CORPORATION SUBJECT TO AN AUDIT UNDER THIS
54 SUBDIVISION SHALL FILE A REPORT WITH THE COMMISSION WITHIN THIRTY DAYS
55 AFTER ISSUANCE OF SUCH AUDIT DETAILING ITS PLAN TO IMPLEMENT THE RECOM-
56 MENDATIONS MADE IN THE AUDIT. AFTER REVIEW OF SUCH PLAN, THE COMMISSION

1 MAY REQUIRE THAT SUCH CORPORATION AMEND THE PLAN IN A PARTICULAR MANNER.
2 SUCH PLAN SHALL THEREAFTER BECOME ENFORCEABLE UPON APPROVAL BY THE
3 COMMISSION. THE COMMISSION SHALL HAVE POWER TO COMMENCE A PROCEEDING TO
4 EXAMINE ANY SUCH CORPORATION'S COMPLIANCE WITH THE RECOMMENDATIONS OF
5 SUCH AUDIT.

6 (C) Upon the application of a gas or electric corporation for a major
7 change in rates as defined in subdivision twelve of this section, the
8 commission shall review that corporation's compliance with the
9 directions and recommendations made previously by the commission, as a
10 result of the most recently completed management and operations audit.
11 The commission shall incorporate the findings of such review in its
12 opinion or order, AND SUCH FINDINGS SHALL BE ENFORCEABLE BY THE COMMIS-
13 SION.

14 21. [The commission shall require every electric corporation to submit
15 storm plans to the commission for review and approval at such times and
16 in such detail and form as the commission shall require, provided,
17 however, that the same shall be filed at least annually.] (A) EACH ELEC-
18 TRIC CORPORATION SHALL ANNUALLY, ON OR BEFORE DECEMBER FIFTEENTH, SUBMIT
19 TO THE COMMISSION AN EMERGENCY RESPONSE PLAN FOR REVIEW AND APPROVAL.
20 THE EMERGENCY RESPONSE PLAN SHALL BE DESIGNED FOR THE REASONABLY PROMPT
21 RESTORATION OF SERVICE IN THE CASE OF AN EMERGENCY EVENT, DEFINED FOR
22 PURPOSES OF THIS SUBDIVISION AS AN EVENT WHERE WIDESPREAD OUTAGES HAVE
23 OCCURRED IN THE SERVICE TERRITORY OF THE COMPANY DUE TO STORMS OR OTHER
24 CAUSES BEYOND THE CONTROL OF THE COMPANY. THE EMERGENCY RESPONSE PLAN
25 SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING: (I) THE IDEN-
26 TIFICATION OF MANAGEMENT STAFF RESPONSIBLE FOR COMPANY OPERATIONS DURING
27 AN EMERGENCY; (II) A COMMUNICATIONS SYSTEM WITH CUSTOMERS DURING AN
28 EMERGENCY THAT EXTENDS BEYOND NORMAL BUSINESS HOURS AND BUSINESS CONDI-
29 TIONS; (III) IDENTIFICATION OF AND OUTREACH PLANS TO CUSTOMERS WHO HAD
30 DOCUMENTED THEIR NEED FOR ESSENTIAL ELECTRICITY FOR MEDICAL NEEDS; (IV)
31 IDENTIFICATION OF AND OUTREACH PLANS TO CUSTOMERS WHO HAD DOCUMENTED
32 THEIR NEED FOR ESSENTIAL ELECTRICITY TO PROVIDE CRITICAL TELECOMMUNI-
33 CATIONS, CRITICAL TRANSPORTATION AND CRITICAL FUEL DISTRIBUTION
34 SERVICES; (V) DESIGNATION OF COMPANY STAFF TO COMMUNICATE WITH LOCAL
35 OFFICIALS AND APPROPRIATE REGULATORY AGENCIES; (VI) PROVISIONS REGARDING
36 HOW THE COMPANY WILL ASSURE THE SAFETY OF ITS EMPLOYEES AND CONTRACTORS;
37 (VII) PROCEDURES FOR DEPLOYING COMPANY AND MUTUAL AID CREWS TO WORK
38 ASSIGNMENT AREAS; (VIII) IDENTIFICATION OF ADDITIONAL SUPPLIES AND
39 EQUIPMENT NEEDED DURING AN EMERGENCY; (IX) THE MEANS OF OBTAINING ADDI-
40 TIONAL SUPPLIES AND EQUIPMENT; (X) PROCEDURES TO PRACTICE THE EMERGENCY
41 RESPONSE PLAN; AND (XI) SUCH OTHER ADDITIONAL INFORMATION AS THE COMMIS-
42 SION MAY REQUIRE. THE FILING WITH THE COMMISSION SHALL ALSO INCLUDE A
43 COPY OF ALL WRITTEN MUTUAL ASSISTANCE AGREEMENTS AMONG UTILITIES. THE
44 COMMISSION SHALL ACCORD PROTECTED TREATMENT OF CONFIDENTIAL, COMPETI-
45 TIVELY SENSITIVE OR OTHER PROPRIETARY INFORMATION CONTAINED IN ANY EMER-
46 GENCY RESPONSE PLAN. EACH SUCH CORPORATION SHALL, ON AN ANNUAL BASIS,
47 UNDERTAKE DRILLS IMPLEMENTING PROCEDURES TO PRACTICE ITS EMERGENCY
48 MANAGEMENT PLAN. THE DEPARTMENT MAY ADOPT ADDITIONAL REQUIREMENTS
49 CONSISTENT WITH ENSURING THE REASONABLY PROMPT RESTORATION OF SERVICE IN
50 THE CASE OF AN EMERGENCY EVENT.

51 (B) AFTER REVIEW OF A CORPORATION'S EMERGENCY RESPONSE PLAN, THE
52 COMMISSION MAY REQUIRE SUCH CORPORATION TO AMEND THE PLAN. THE COMMIS-
53 SION MAY ALSO OPEN AN INVESTIGATION OF THE CORPORATION'S PLAN TO DETER-
54 MINE ITS SUFFICIENCY TO RESPOND ADEQUATELY TO AN EMERGENCY EVENT. IF,
55 AFTER HEARINGS, THE COMMISSION FINDS A MATERIAL DEFICIENCY IN THE PLAN,

1 IT MAY ORDER THE COMPANY TO MAKE SUCH MODIFICATIONS THAT IT DEEMS
2 REASONABLY NECESSARY TO REMEDY THE DEFICIENCY.

3 (C) THE COMMISSION IS AUTHORIZED TO OPEN AN INVESTIGATION TO REVIEW
4 THE PERFORMANCE OF ANY CORPORATION IN RESTORING SERVICE OR OTHERWISE
5 MEETING THE REQUIREMENTS OF THE EMERGENCY RESPONSE PLAN DURING AN EMER-
6 GENCY EVENT. IF, AFTER EVIDENTIARY HEARINGS OR OTHER INVESTIGATORY
7 PROCEEDINGS, THE COMMISSION FINDS THAT THE CORPORATION FAILED TO REASON-
8 ABLY IMPLEMENT ITS EMERGENCY RESPONSE PLAN OR THE LENGTH OF SUCH CORPO-
9 RATION'S OUTAGES WERE MATERIALLY LONGER THAN THEY WOULD HAVE BEEN BUT
10 FOR SUCH FAILURE TO REASONABLY IMPLEMENT ITS EMERGENCY RESPONSE PLAN,
11 THE COMMISSION MAY DENY THE RECOVERY OF ALL, OR ANY PART OF, THE SERVICE
12 RESTORATION COSTS, COMMENSURATE WITH THE DEGREE AND IMPACT OF THE
13 SERVICE OUTAGE; PROVIDED, HOWEVER, THAT NOTHING HEREIN LIMITS THE
14 COMMISSION'S AUTHORITY TO OTHERWISE COMMENCE A PROCEEDING PURSUANT TO
15 SECTIONS TWENTY-FOUR AND TWENTY-FIVE OF THIS CHAPTER.

16 (D) THE COMMISSION SHALL CERTIFY TO THE DEPARTMENT OF HOMELAND SECURI-
17 TY AND EMERGENCY SERVICES THAT EACH SUCH CORPORATION'S EMERGENCY
18 RESPONSE PLAN IS SUFFICIENT TO ENSURE TO THE GREATEST EXTENT FEASIBLE
19 THE TIMELY AND SAFE RESTORATION OF ENERGY SERVICES AFTER AN EMERGENCY.

20 S 5. Section 68 of the public service law, as amended by chapter 52 of
21 the laws of 1940, is amended to read as follows:

22 S 68. [Approval of incorporation and franchises; certificate] CERTIF-
23 ICATE OF PUBLIC CONVENIENCE AND NECESSITY. 1. CERTIFICATE REQUIRED. No
24 gas corporation or electric corporation shall begin construction of a
25 gas plant or electric plant without first having obtained the permission
26 and approval of the commission. No such corporation shall exercise any
27 right or privilege under any franchise hereafter granted, or under any
28 franchise heretofore granted but not heretofore actually exercised, or
29 the exercise of which shall have been suspended for more than one year,
30 without first having obtained [the permission and approval of] A CERTIF-
31 ICATE OF PUBLIC CONVENIENCE AND NECESSITY ISSUED BY the commission.
32 Before such certificate shall be issued a certified copy of the charter
33 of such corporation shall be filed in the office of the commission,
34 together with a verified statement of the president and secretary of the
35 corporation, showing that it has received the required consent of the
36 proper municipal authorities. The commission shall have power to grant
37 the permission and approval herein specified whenever it shall after due
38 hearing determine that such construction or such exercise of the right,
39 privilege or franchise is [necessary or] convenient AND NECESSARY for
40 the public service. IN MAKING SUCH A DETERMINATION, THE COMMISSION SHALL
41 CONSIDER THE ECONOMIC FEASIBILITY OF THE CORPORATION, THE CORPORATION'S
42 ABILITY TO FINANCE IMPROVEMENTS OF A GAS PLANT OR ELECTRIC PLANT, RENDER
43 SAFE, ADEQUATE AND RELIABLE SERVICE, AND PROVIDE JUST AND REASONABLE
44 RATES, AND WHETHER ISSUANCE OF A CERTIFICATE IS IN THE PUBLIC INTEREST.
45 Except as provided in article [fourteen-a] FOURTEEN-A of the general
46 municipal law, no municipality shall build, maintain and operate for
47 other than municipal purposes any works or systems for the manufacture
48 and supplying of gas or electricity for lighting purposes without a
49 certificate of authority granted by the commission. If the certificate
50 of authority is refused, no further proceedings shall be taken by such
51 municipality before the commission, but a new application may be made
52 therefor after one year from the date of such refusal.

53 2. REVOCATION OR MODIFICATION OF CERTIFICATE. THE COMMISSION MAY
54 COMMENCE A PROCEEDING TO REVOKE OR MODIFY SUCH CERTIFICATE AS IT RELATES
55 TO SUCH CORPORATION'S SERVICE TERRITORY OR ANY PORTION THEREOF BASED ON

1 GOOD CAUSE SHOWN, WITH THE INQUIRY INFORMED BY CONSIDERATION OF THE
2 FOLLOWING FACTORS:

3 (A) THE FACTORS IDENTIFIED IN SUBDIVISION ONE OF THIS SECTION FOR
4 ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY;

5 (B) WHETHER ANOTHER PERSON, FIRM OR CORPORATION IS QUALIFIED, AVAIL-
6 ABLE, AND PREPARED TO PROVIDE ALTERNATIVE SERVICE THAT IS ADEQUATE TO
7 SERVE THE PUBLIC CONVENIENCE AND NECESSITY, AND THAT THE TRANSITION TO
8 SUCH ALTERNATIVE PERSON, FIRM OR CORPORATION IS IN THE PUBLIC INTEREST;
9 AND

10 (C) UPON ANY OTHER STANDARDS AND PROCEDURES DEEMED NECESSARY BY THE
11 COMMISSION TO ENSURE CONTINUITY OF SAFE AND ADEQUATE SERVICE, AND DUE
12 PROCESS.

13 S 6. Paragraph d of subdivision 1 of section 119-b of the public
14 service law, as amended by chapter 445 of the laws of 1995, is amended
15 to read as follows:

16 d. "Underground facilities" means pipelines, conduits, ducts, cables,
17 wires, GAS PRODUCTION AND GATHERING PIPELINE SYSTEMS DESIGNED TO OPERATE
18 AT THREE HUNDRED POUNDS PER SQUARE INCH GAUGE OR HIGHER, manholes,
19 vaults or other such facilities or their attachments[, which have been]
20 installed underground by an operator to provide services or materials.
21 Such term shall not include oil [and gas] production and gathering pipe-
22 line systems used primarily to collect oil [or gas] production from
23 wells.

24 S 7. Subdivision 4 of section 760 of the general business law, as
25 amended by chapter 685 of the laws of 1994, is amended to read as
26 follows:

27 4. "Underground facilities" means pipelines, conduits, ducts, cables,
28 wires, GAS PRODUCTION AND GATHERING PIPELINE SYSTEMS DESIGNED TO OPERATE
29 AT THREE HUNDRED POUNDS PER SQUARE INCH GAUGE OR HIGHER, manholes,
30 vaults or other such facilities or their attachments[, which have been]
31 installed underground by an operator to provide services or materials.
32 Such term shall not include oil [and gas] production and gathering pipe-
33 line systems used primarily to collect oil [or gas] production from
34 wells.

35 S 8. Paragraphs a and b of subdivision 1 of section 765 of the general
36 business law, as amended by chapter 685 of the laws of 1994, are amended
37 to read as follows:

38 a. Failure to comply with any provision of this article shall subject
39 an excavator or an operator to a civil penalty of up to [one] TWO thou-
40 sand FIVE HUNDRED dollars for the first violation and up to an addi-
41 tional [seven] TEN thousand [five hundred] dollars for each succeeding
42 violation [which] THAT occurs [in connection with the entire self-same
43 excavation or demolition activity] within a [two] TWELVE month period.

44 b. The penalties provided for by this article shall not apply to an
45 excavator who damages an underground facility due to the failure of the
46 operator to comply with any of the provisions of this article nor shall
47 in such instance the excavator be liable for repairs as prescribed in
48 subdivision [five] FOUR of this section.

49 S 9. This act shall take effect immediately.

50

PART P

51 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
52 executive law relating to permitting the secretary of state to provide
53 special handling for all documents filed or issued by the division of
54 corporations and to permit additional levels of such expedited service,

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

3 S 2. This act shall take effect immediately, provided however, that
4 section one of this act shall be deemed to have been in full force and
5 effect on and after April 1, 2003 and shall expire March 31, [2013]
6 2014.

7 S 2. This act shall take effect immediately and shall be deemed to
8 have been in full force and effect on and after March 31, 2013.

9

PART Q

10 Section 1. This act enacts into law major components of legislation
11 which are necessary to implement the state fiscal plan for the 2013-2014
12 state fiscal year. Each component is wholly contained within a Subpart
13 identified as Subparts A through E. The effective date for each partic-
14 ular provision contained within such Subpart is set forth in the last
15 section of such Subpart. Any provision in any section contained within a
16 Subpart, including the effective date of the Subpart, which makes a
17 reference to a section "of this act", when used in connection with that
18 particular component, shall be deemed to mean and refer to the corre-
19 sponding section of the Subpart in which it is found. Section three of
20 this Part sets forth the general effective date of this Part.

21

SUBPART A

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

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

32 S 2. The opening paragraph of paragraph 1 of section 5 of the cooper-
33 ative corporations law, as amended by chapter 158 of the laws of 1978,
34 is amended to read as follows:

35 The business corporation law applies to every corporation heretofore
36 or hereafter formed under this chapter, or under any other statute or
37 special act of this state, or under laws other than the statutes of this
38 state, [which] THAT has as its purpose or among its purposes the cooper-
39 ative rendering of mutual help and service to its members and which, if
40 formed under laws other than the statutes of this state, would, if it
41 were to be formed currently under the laws of this state, be formed
42 under this chapter except a membership cooperative as defined in section
43 three of this chapter, to which the not-for-profit corporation law shall
44 apply. Any corporation to which the business corporation law is made
45 applicable by this section shall be treated as a "corporation," "domes-
46 tic corporation," or "foreign corporation," as such terms are used in
47 the business corporation law; provided, however, that neither the
48 purposes for which any such corporation may be formed under this chapter
49 nor its classification as a non-profit corporation shall thereby be
50 extended or affected. Any corporation to which the not-for-profit corpo-
51 ration law is made applicable by this section shall be [a type D not-
52 for-profit corporation] SUBJECT TO PROVISIONS GOVERNING CORPORATIONS

1 FORMED UNDER SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF SECTION TWO HUNDRED
2 ONE OF THE NOT-FOR-PROFIT CORPORATION LAW.

3 S 3. Subdivision 4 of section 455 of the general business law, as
4 amended by chapter 456 of the laws of 2006, is amended to read as
5 follows:

6 4. Person or entity as used in this article shall not include a [type
7 B] not-for-profit corporation as defined in section two hundred one of
8 the not-for-profit corporation law of this state, or an entity incorpo-
9 rated in another state and having a similar not-for-profit status,
10 licensed by the superintendent OF FINANCIAL SERVICES, to engage in the
11 business of budget planning as defined in this section.

12 S 4. Paragraphs (a) and (c) of section 103 of the not-for-profit
13 corporation law, paragraph (a) as amended by chapter 807 of the laws of
14 1973 and paragraph (c) as amended by chapter 961 of the laws of 1972,
15 are amended to read as follows:

16 (a) Except as otherwise provided in this section, this chapter
17 applies to every domestic corporation as herein defined, and to every
18 foreign corporation as herein defined which is authorized to conduct or
19 which conducts any activities in this state. This chapter also applies
20 to any other domestic corporation or foreign corporation of any type or
21 kind to the extent, if any, provided under this chapter or any law
22 governing such corporation and, if no such provision for application is
23 made, to the extent, if any, that the membership corporations law
24 applied to such corporation as of the effective date of this chapter. A
25 corporation formed by a special act of this state which has as its prin-
26 cipal purpose an education purpose and which is a member of the univer-
27 sity of the state of New York, is an "education corporation" under
28 section two hundred sixteen-a of the education law.

29 To the extent that the membership corporations law or the general
30 corporation law applied to it as of the effective date of this chapter,
31 the corresponding provisions of this chapter apply to a corporation
32 heretofore formed by or pursuant to a special act of this state other
33 than a religious corporation or an "education corporation" under clause
34 (b) of subdivision one of section two hundred sixteen-a of the education
35 law, if (1) its principal purpose is a religious, charitable or educa-
36 tion purpose, and (2) it is operated, supervised or controlled by or in
37 connection with a religious organization. Any such corporation may
38 elect hereunder at any time after the effective date of this chapter to
39 file a RESTATED certificate of [type] INCORPORATION under section [one]
40 EIGHT hundred [thirteen (Certificate of type of not-for-profit corpo-
41 ration)] FIVE (RESTATED CERTIFICATE OF INCORPORATION). SUCH RESTATED
42 CERTIFICATE OF INCORPORATION SHALL MEET THE REQUIREMENTS OF SECTION 402
43 (CERTIFICATE OF INCORPORATION; CONTENTS). Upon the filing of such
44 certificate by the department of state, this chapter shall apply in all
45 respects to such corporation.

46 This chapter also applies to any other corporation of any type or
47 kind, formed not for profit under any other chapter of the laws of this
48 state except a chapter of the consolidated laws, to the extent that
49 provisions of this chapter do not conflict with the provisions of such
50 unconsolidated law. If an applicable provision of such unconsolidated
51 law relates to a matter embraced in this chapter but is not in conflict
52 therewith, both provisions shall apply. Any corporation to which this
53 chapter is made applicable by this paragraph shall be treated as a
54 "corporation" or "domestic corporation" as such terms are used in this
55 chapter, except that the purposes of any such corporation formed or
56 formable under such unconsolidated law shall not thereby be extended.

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

4 (c) If any provision in articles one to thirteen inclusive of this
5 chapter conflicts with a provision of any subsequent articles or of any
6 special act under which a corporation to which this chapter applies is
7 formed, the provision in such subsequent article or special act
8 prevails. A provision of any such subsequent article or special act
9 relating to a matter referred to in articles one to thirteen inclusive
10 and not in conflict therewith is supplemental and both shall apply.
11 Whenever the board of a [Type B] corporation FORMED FOR THE PURPOSES
12 SPECIFIED IN SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SECTION TWO HUNDRED
13 ONE OF THIS CHAPTER, formed under a special act, reasonably makes an
14 interpretation as to whether a provision of the special act or this
15 chapter prevails, or both apply, such interpretation shall govern unless
16 and until a court determines otherwise, if such board has acted in good
17 faith for a purpose which it reasonably believes to be in the best
18 interests of the corporation, provided however, that such interpretation
19 shall not bind any governmental body or officer.

20 S 5. Paragraph (e) of section 104 of the not-for-profit corporation
21 law, as amended by chapter 833 of the laws of 1982, is amended to read
22 as follows:

23 (e) If an instrument which is delivered to the department of state
24 for filing complies as to form with the requirements of law [and there
25 has been attached to it the consent or approval of the supreme court
26 justice, governmental body or officer, or, other person or body, if any,
27 whose consent to or approval of such instrument or the filing thereof is
28 required by any statute of this state] and the filing fee and tax, if
29 any, required by any statute of this state in connection therewith have
30 been paid, the instrument shall be filed and indexed by the department
31 of state. No certificate of authentication or conformity or other proof
32 shall be required with respect to any verification, oath or acknowledg-
33 ment of any instrument delivered to the department of state under this
34 chapter, if such verification, oath or acknowledgment purports to have
35 been made before a notary public, or person performing the equivalent
36 function, of one of the states, or any subdivision thereof, of the
37 United States or the District of Columbia. Without limiting the effect
38 of section four hundred three of this chapter, filing and indexing by
39 the department of state shall not be deemed a finding that a certificate
40 conforms to law, nor shall it be deemed to constitute an approval by the
41 department of state of the name of the corporation or the contents of
42 the certificate, nor shall it be deemed to prevent any person with
43 appropriate standing from contesting the legality thereof in an appro-
44 priate forum. UPON THE WRITTEN NOTIFICATION TO THE DEPARTMENT OF STATE
45 BY ANY STATE OFFICIAL, DEPARTMENT, BOARD, AGENCY OR OTHER BODY THAT A
46 DOMESTIC CORPORATION OR FOREIGN AUTHORIZED CORPORATION HAS FAILED TO
47 OBTAIN THE CONSENT OR APPROVAL OF SUCH STATE OFFICIAL, DEPARTMENT,
48 BOARD, AGENCY OR OTHER BODY FOR ANY CERTIFICATE OR INSTRUMENT, THE
49 CORPORATION'S AUTHORITY TO CARRY ON, CONDUCT OR TRANSACT ACTIVITIES IN
50 THIS STATE SHALL BE SUSPENDED. SUCH SUSPENSION SHALL BE ANNULLED UPON
51 THE FILING OF A CERTIFICATE OF AMENDMENT WITH THE REQUIRED CONSENT OR
52 APPROVAL ANNEXED THERETO.

53 S 6. Subparagraph 7 of paragraph (a) of section 112 of the not-for-
54 profit corporation law, as amended by chapter 1058 of the laws of 1971,
55 is amended to read as follows:

(7) To enforce any right given under this chapter to members, a director or an officer of a [Type B or Type C] corporation FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF PARAGRAPH (B) OF SECTION TWO HUNDRED ONE OF THIS CHAPTER. The attorney-general shall have the same status as such members, director or officer.

S 7. Section 113 of the not-for-profit corporation law is REPEALED.

S 8. 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 FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF PARAGRAPH (B) OF SECTION TWO HUNDRED ONE OF THIS CHAPTER, 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 or creditor of any such corporation, that it, or its directors, officers 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 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 9. Paragraph (b) of section 201 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(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 not-for-profit corporation of this type may be formed] (1) 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] (2) 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] (3) 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] (4) 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] SUBPARAGRAPHS ONE, TWO OR THREE above or otherwise.

S 10. Paragraph (c) of section 201 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(c) If a corporation is formed for purposes which are [within both type A and type B above, it is a type B corporation] SPECIFIED IN SUBPARAGRAPHS ONE AND TWO OF PARAGRAPH (B) OF THIS SECTION, ALL PROVISIONS GOVERNING CORPORATIONS FORMED FOR PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OF PARAGRAPH (B) OF THIS SECTION SHALL APPLY TO SUCH 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] FORMED PURSUANT TO SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF THIS SECTION SHALL BE GOVERNED BY ALL PROVISIONS GOVERNING CORPORATIONS FORMED FOR PURPOSES SPECIFIED IN PARAGRAPH TWO OF SUBDIVISION (B) OF THIS SECTION 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] SUCH corporation.

S 11. Subparagraph 3 of paragraph (a) of section 301 of the not-for-profit corporation law is amended to read as follows:

(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 and consents) or] any other statute of this state, [unless in the latter case the] EXCEPT IN COMPLIANCE WITH SUCH restrictions [have been complied with].

S 12. 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 corporation it shall be under section 201 (Purposes)]; and in the case of a [Type C] corporation FORMED FOR PURPOSES SPECIFIED IN SUBPARAGRAPH THREE OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), the lawful public or quasi-public objective [which] each business purpose will achieve.

(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 FORMED UNDER SUBPARAGRAPH FOUR OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), the names and addresses of the initial directors, if any, may but need not be set forth.

S 13. 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] corporation FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH ONE OF PARAGRAPH (B) OF SECTION 201 (PURPOSES) 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 14. 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 corporation under section 113 or section 402 of the New York Not-for-Profit Corporation Law.

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

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

[(4)] (3) If appropriate, [that the corporation is a Type A corporation, and] IN THE CASE OF A CORPORATION FORMED FOR THE PURPOSES OF SUBPARAGRAPH (1) OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), that its certificate of incorporation provides that the capital certificate is transferable to other members with the consent of the corporation.

S 15. 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 REPEALED, and subparagraphs 2, 3, 4, 5 and 6 are renumbered subparagraphs 1, 2, 3, 4, and 5.

S 16. Subparagraph 3 of paragraph (a) of section 510 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

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

S 17. 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] UNLESS OTHERWISE PROVIDED BY LAW OR IN THE CERTIFICATE OF INCORPORATION, A corporation [which is, or would be if formed under this chapter, classified as a Type B corporation shall] MAY 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, EXCEPT FOR CORPORATIONS FORMED FOR PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SECTION 201 (PURPOSES). [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 18. Paragraph (a) of section 601 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

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

S 19. Subparagraph 3 of paragraph (a) of section 803 of the not-for-profit corporation law, as added 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 20. Subparagraph (ii) of paragraph (a) of section 804 of the not-for-profit corporation law, as amended by chapter 139 of the laws of 1993, is amended to read as follows:

(ii) Every certificate of amendment of a corporation [classified as type B or type C under] FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OR THREE OF PARAGRAPH (B) OF 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 21. Paragraphs (a) and (c) of section 907 of the not-for-profit corporation law are amended to read as follows:

(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 corporation under section 201 (Purposes) of this chapter, no] NO certificate shall be filed pursuant to section 904 (Certificate of merger or consolidation; contents) or section 906 BY CORPORATIONS (Merger or consolidation of domestic and foreign corporations) FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OR THREE OF PARAGRAPH (B) OF SECTION 201 (PURPOSES) 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 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

1 resolution as adopted by each constituent corporation, and (6) facts
2 showing that the consolidation is authorized by the laws of the juris-
3 dictions under which each of the constituent corporations is incorpo-
4 rated.

5 (c) If the court shall find that any of the assets of any of the
6 constituent corporations are held for [a] ANY purpose specified [as Type
7 B] in SUBPARAGRAPH TWO OR THREE OF paragraph (b) of section 201
8 (PURPOSES) or are legally required to be used for a particular purpose,
9 but not upon a condition requiring return, transfer or conveyance by
10 reason of the merger or consolidation, the court may, in its discretion,
11 direct that such assets be transferred or conveyed to the surviving or
12 consolidated corporation subject to such purpose or use, or that such
13 assets be transferred or conveyed to the surviving or consolidated
14 corporation or to one or more other domestic or foreign corporations or
15 organizations engaged in substantially similar activities, upon an
16 express trust the terms of which shall be approved by the court.

17 S 22. Paragraphs (a) and (f) of section 908 of the not-for-profit
18 corporation law are amended to read as follows:

19 (a) One or more domestic or foreign corporations [which is, or would
20 be if formed under this chapter, a type A or type C corporation under
21 section 201 (Purposes)] may be merged or consolidated into a domestic or
22 foreign corporation which is, or would be if formed under the laws of
23 this state, a corporation formed under the business corporation law of
24 this state if such merger or consolidation is not contrary to the law of
25 the state of incorporation of any constituent corporation. With respect
26 to such merger or consolidation, any reference in paragraph (b) of
27 section 901 [of this article] (POWER OF MERGER OR CONSOLIDATION) or
28 paragraph (b) of section 901 of the business corporation law to a corpo-
29 ration shall, unless the context otherwise requires, include both domes-
30 tic and foreign corporations.

31 (f) [Where any constituent corporation is, or would be if formed under
32 this chapter, a Type C corporation under section 201 (Purposes), no] NO
33 certificate shall be filed pursuant to this section BY CORPORATIONS
34 FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OR THREE OF PARA-
35 GRAPH (B) OF SECTION 201 (PURPOSES) until an order approving the plan of
36 merger or consolidation and authorizing the filing of the certificate
37 has been made by the supreme court, as provided in section 907 (Approval
38 by the supreme court).

39 S 23. Paragraphs (b) and (c) and subparagraph 3 of paragraph (d) of
40 section 1001 of the not-for-profit corporation law, as amended by chap-
41 ter 434 of the laws of 2006, are amended to read as follows:

42 (b) If [the] A corporation [is a Type B, C or D corporation and]
43 FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF
44 PARAGRAPH (B) OF SECTION 201 (PURPOSES) has no assets to distribute and
45 no liabilities at the time of dissolution, the plan of dissolution shall
46 include a statement to that effect.

47 (c) If [the] A corporation [is a Type B, C or D corporation and]
48 FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF
49 PARAGRAPH (B) OF 201 (PURPOSES) has no assets to distribute, other than
50 a reserve not to exceed twenty-five thousand dollars for the purpose of
51 paying ordinary and necessary expenses of winding up its affairs includ-
52 ing attorney and accountant fees, and liabilities not in excess of ten
53 thousand dollars at the time of adoption of the plan of dissolution, the
54 plan of dissolution shall include a statement to that effect.

55 (3) if there are assets received and held by the corporation [either]
56 for a purpose specified [as Type B] in SUBPARAGRAPH TWO OR THREE OF

1 paragraph (b) of section 201 (Purposes) or [which] THAT are legally
2 required to be used for a particular purpose, a statement that the
3 assets owned by the corporation, subject to any unpaid liabilities of
4 the corporation, shall be distributed as required by any gift instrument
5 or to a charitable organization or organizations exempt from taxation
6 pursuant to federal and state laws and engaged in activities substan-
7 tially similar to those of the dissolved corporation. Each such recipi-
8 ent organization shall be identified and the governing instrument and
9 amendments thereto of each of the proposed recipient organizations shall
10 be annexed to such statement, along with the financial reports of each
11 recipient organization for the last three years and a sworn affidavit
12 from a director and officer of each recipient organization stating the
13 purposes of the organization, and that it is currently exempt from
14 federal income taxation.

15 S 24. Paragraphs (a) and (d) of section 1002 of the not-for-profit
16 corporation law, as amended by chapter 434 of the laws of 2006, are
17 amended to read as follows:

18 (a) Upon adopting a plan of dissolution and distribution of assets,
19 the board shall submit it to a vote of the members, if any, and such
20 plan shall be approved at a meeting of members by two-thirds vote as
21 provided in paragraph (c) of section 613 (Vote of members); provided,
22 however, that if the corporation is [a Type B, C or D corporation]
23 FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF
24 PARAGRAPH (B) OF SECTION 201 (PURPOSES), other than a corporation incor-
25 porated pursuant to article 15 (Public cemetery corporations), [and] has
26 no assets to distribute, other than a reserve not to exceed twenty-five
27 thousand dollars for the purpose of paying ordinary and necessary
28 expenses of winding up its affairs including attorney and accountant
29 fees, and liabilities not in excess of ten thousand dollars at the time
30 of adoption of the plan of dissolution, the vote required by the corpo-
31 ration's board of directors for adoption of the plan of dissolution of
32 such a corporation or by the corporation's members for the authorization
33 thereof shall be:

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

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

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

48 Notice of a special or regular meeting of the board of directors or of
49 the members entitled to vote on adoption and authorization or approval
50 of the plan of dissolution shall be sent to all the directors and
51 members of record entitled to vote. Unless otherwise directed by order
52 of the supreme court pursuant to section 608 [of this chapter] (QUORUM
53 AT MEETING OF MEMBERS), the notice shall be sent by certified mail,
54 return receipt requested, to the last known address of record of each
55 director and member not fewer than thirty, and not more than sixty days
56 before the date of each meeting provided, however, that if the last

1 known address of record of any director or member is not within the
2 United States, the notice to such director shall be sent by any other
3 reasonable means.

4 (d) The plan of dissolution and distribution of assets shall have
5 annexed thereto the approval of a justice of the supreme court in the
6 judicial district in which the office of the corporation is located in
7 the case of a [Type B, C or D] corporation FORMED FOR THE PURPOSES SPECI-
8 FIED IN SUBPARAGRAPH TWO, THREE OR FOUR OF PARAGRAPH (B) OF SECTION 201
9 (PURPOSES), and in the case of any other corporation which holds assets
10 at the time of dissolution legally required to be used for a particular
11 purpose, except that no such approval shall be required with respect to
12 the plan of dissolution of a corporation, other than a corporation
13 incorporated pursuant to article 15 (Public cemetery corporations),
14 which has no assets to distribute at the time of dissolution, other than
15 a reserve not to exceed twenty-five thousand dollars for the purpose of
16 paying ordinary and necessary expenses of winding up its affairs includ-
17 ing attorney and accountant fees, and liabilities not in excess of ten
18 thousand dollars, and which has complied with the requirements of
19 section 1001 (Plan of dissolution and distribution of assets) and this
20 section applicable to such a corporation. Application to the supreme
21 court for an order for such approval shall be by verified petition, with
22 the plan of dissolution and distribution of assets and certified copies
23 of the consents prescribed by this section annexed thereto, and upon ten
24 days written notice to the attorney general accompanied by copies of
25 such petition, plan and consents. In such case where approval of a
26 justice of the supreme court is not required for a [Type B, C or D]
27 corporation FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE
28 OR FOUR OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), a copy of such plan
29 certified under penalties of perjury shall be filed with the attorney
30 general within ten days after its authorization.

31 S 25. Subparagraph 1 of paragraph (c) of section 1002-a of the not-
32 for-profit corporation law, as amended by chapter 434 of the laws of
33 2006, is amended to read as follows:

34 (1) assets received and held by the corporation [either] for a purpose
35 specified [as Type B] in SUBPARAGRAPH TWO OR THREE OF paragraph (b) of
36 section 201 (Purposes) or which are legally required to be used for a
37 particular purpose, shall be distributed to one or more domestic or
38 foreign corporations or other organizations engaged in activities
39 substantially similar to those of the dissolved corporation pursuant to
40 the plan of dissolution and distribution or, if applicable, as ordered
41 by the court to which such plan is submitted for approval under section
42 1002 (Authorization of plan). Any disposition of assets contained in a
43 will or other instrument, in trust or otherwise, made before or after
44 the dissolution, to or for the benefit of any corporation so dissolved
45 shall inure to or for the benefit of the corporation or organization
46 acquiring such assets of the dissolved corporation as provided in this
47 section, and so far as is necessary for that purpose the corporation or
48 organization acquiring such disposition shall be deemed a successor to
49 the dissolved corporation with respect to such assets; provided, howev-
50 er, that such disposition shall be devoted by the acquiring corporation
51 or organization to the purposes intended by the testator, donor or gran-
52 tor.

53 S 26. Subparagraph 4 of paragraph (a) of section 1003 of the not-for-
54 profit corporation law is REPEALED and subparagraphs 5, 6, 7 and 8 are
55 renumbered subparagraphs 4, 5, 6 and 7.

1 S 27. Subparagraph 2 of paragraph (b) of section 1003 of the not-for-
2 profit corporation law, as amended by chapter 434 of the laws of 2006,
3 is amended to read as follows:

4 (2) By the attorney general in the case of a [Type B, C or D] corpo-
5 ration FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO, THREE OR
6 FOUR OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), or any other corpo-
7 ration that holds assets at the time of dissolution legally required to
8 be used for a particular purpose.

9 S 28. Subparagraph 15 of paragraph (a) of section 1008 of the not-for-
10 profit corporation law, as amended by chapter 434 of the laws of 2006,
11 is amended to read as follows:

12 (15) Where assets were received and held by the corporation either for
13 a purpose specified [as Type B] in SUBPARAGRAPH TWO OR THREE OF para-
14 graph (b) of section 201 (Purposes), or were legally required to be used
15 for a particular purpose, the distribution of such assets to one or more
16 domestic or foreign corporations or other organizations engaged in
17 activities substantially similar to those of the dissolved corporation,
18 on notice to the attorney general and to such other persons, and in such
19 manner, as the court may deem proper.

20 S 29. Subparagraph 6 of paragraph (a) of section 1012 of the not-for-
21 profit corporation law is REPEALED.

22 S 30. Section 1302 of the not-for-profit corporation law, as amended
23 by chapter 847 of the laws of 1970, is amended to read as follows:

24 S 1302. Application to existing authorized foreign corporations.

25 Every foreign corporation which on the effective date of this chapter
26 is authorized to conduct activities in this state under a certificate of
27 authority heretofore issued to it by the secretary of state shall
28 continue to have such authority. Such foreign corporation, its members,
29 directors, and officers shall have the same rights, franchises, and
30 privileges and shall be subject to the same limitations, restrictions,
31 liabilities, and penalties as a foreign corporation authorized under
32 this chapter, its members, directors, and officers respectively. A
33 foreign corporation [may by amendment to its certificate of authority
34 set forth the type of corporation it is under section 201 (Purposes);
35 and in the absence of such amendment an authorized foreign corporation
36 shall be a Type B corporation] SHALL BE SUBJECT TO PROVISIONS GOVERNING
37 CORPORATIONS FORMED UNDER SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SECTION
38 201 (PURPOSES), UNLESS OTHERWISE REQUIRED BY LAW. Reference in this
39 chapter to an application for authority shall, unless the context other-
40 wise requires, include the statement and designation and any amendment
41 thereof required to be filed by the secretary of state under prior stat-
42 utes to obtain a certificate of authority.

43 S 31. Subparagraph 4 of paragraph (a) of section 1304 of the not-for-
44 profit corporation law, as amended by chapter 847 of the laws of 1970
45 and as renumbered by chapter 590 of the laws of 1982, is amended to read
46 as follows:

47 (4) That the corporation is a foreign corporation as defined in
48 subparagraph (a) (7) of section 102 (Definitions); [the type of corpo-
49 ration it shall be under section 201 (Purposes);] a statement of its
50 purposes to be pursued in this state and of the activities which it
51 proposes to conduct in this state; a statement that it is authorized to
52 conduct those activities in the jurisdiction of its incorporation; and
53 in the case of a [Type C] corporation FORMED FOR THE PURPOSES SPECIFIED
54 IN SUBPARAGRAPH THREE OF PARAGRAPH (B) OF SECTION 201 (PURPOSES), the
55 lawful public or quasi-public objective which each business purpose will
56 achieve.

1 S 32. Paragraph (a) of section 1321 of the not-for-profit corporation
2 law, subparagraphs 1, 2 and 3 as amended by chapter 847 of the laws of
3 1970, are amended to read as follows:

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

12 (1) The corporation is a Type A corporation under this chapter; its]
13 THE CORPORATION'S principal activities are conducted outside this state;
14 the greater part of its property is located outside this state; and (1)
15 less than one third of its members are residents of this state; or

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

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

27 S 33. Paragraph (d) of section 1401 of the not-for-profit corporation
28 law is REPEALED and paragraph (e) is relettered paragraph (d).

29 S 34. Paragraph (b) of section 1402 of the not-for-profit corporation
30 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are
31 relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

32 S 35. Paragraph (c) of section 1403 of the not-for-profit corporation
33 law is REPEALED.

34 S 36. Paragraph (b) of section 1404 of the not-for-profit corporation
35 law is REPEALED and paragraphs (c), (d) and (e) are relettered para-
36 graphs (b), (c) and (d).

37 S 37. Paragraph (b) of section 1405 of the not-for-profit corporation
38 law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered
39 paragraphs (b), (c) (d) and (e).

40 S 38. Paragraph (b) of section 1406 of the not-for-profit corporation
41 law is REPEALED and paragraphs (c), (d), (e) and (f) are relettered
42 paragraphs (b), (c), (d) and (e).

43 S 39. Paragraph (b) of section 1407 of the not-for-profit corporation
44 law is REPEALED and paragraphs (c) and (d) are relettered paragraphs (b)
45 and (c).

46 S 40. Paragraph (b) of section 1408 of the not-for-profit corporation
47 law is REPEALED and paragraph (c) is relettered paragraph (b).

48 S 41. Paragraph (b) of section 1409 of the not-for-profit corporation
49 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h), (i), (j)
50 and (k) are relettered paragraphs (b), (c), (d), (e), (f), (g), (h), (i)
51 and (j).

52 S 42. Paragraph (b) of section 1410 of the not-for-profit corporation
53 law is REPEALED and paragraph (c) is relettered paragraph (b).

54 S 43. Paragraph (b) of section 1411 of the not-for-profit corporation
55 law is REPEALED and paragraphs (c), (d), (e), (f), (g), (h) and (i) are
56 relettered paragraphs (b), (c), (d), (e), (f), (g) and (h).

1 S 44. Paragraph (d) of section 1412 of the not-for-profit corporation
2 law is REPEALED and paragraphs (e), (f) and (g) are relettered para-
3 graphs (d), (e) and (f), respectively.

4 S 45. Paragraph (c) of section 1505 of the not-for-profit corporation
5 law is REPEALED and paragraph (d) is relettered paragraph (c).

6 S 46. Subdivision 2 of section 2-b of the religious corporations law
7 is REPEALED and subdivisions 3 and 4 are renumbered subdivisions 2 and
8 3.

9 S 47. This act shall take effect on the sixtieth day after it shall
10 have become a law.

11 SUBPART B

12 Section 1. Paragraph (e) of section 104 of the business corporation
13 law, as amended by chapter 832 of the laws of 1982, is amended to read
14 as follows:

15 (e) If an instrument which is delivered to the department of state for
16 filing complies as to form with the requirements of law and WHERE
17 REQUIRED BY STATUTE there has been attached to it the consent or
18 approval of the state official, [department, board,] agency or other
19 body, if any, whose consent to or approval of such instrument or the
20 filing thereof is required by any statute of this state and the filing
21 fee and tax, if any, required by any statute of this state in connection
22 therewith have been paid, the instrument shall be filed and indexed by
23 the department of state. No certificate of authentication or conformity
24 or other proof shall be required with respect to any verification, oath
25 or acknowledgment of any instrument delivered to the department of state
26 under this chapter, if such verification, oath or acknowledgment
27 purports to have been made before a notary public, or person performing
28 the equivalent function, of one of the states, or any subdivision there-
29 of, of the United States or the District of Columbia. Without limiting
30 the effect of section four hundred three of this chapter, filing and
31 indexing by the department of state shall not be deemed a finding that a
32 certificate conforms to law, nor shall it be deemed to constitute an
33 approval by the department of state of the name of the corporation or
34 the contents of the certificate, nor shall it be deemed to prevent any
35 person with appropriate standing from contesting the legality thereof in
36 an appropriate forum. UPON THE WRITTEN NOTIFICATION TO THE DEPARTMENT OF
37 STATE BY ANY STATE OFFICIAL, DEPARTMENT, BOARD, AGENCY OR OTHER BODY
38 THAT A DOMESTIC CORPORATION OR FOREIGN AUTHORIZED CORPORATION HAS FAILED
39 TO OBTAIN THE CONSENT OR APPROVAL OF SUCH STATE OFFICIAL, DEPARTMENT,
40 BOARD, AGENCY OR OTHER BODY FOR ANY CERTIFICATE OR INSTRUMENT, THE
41 CORPORATION'S AUTHORITY TO CARRY ON, CONDUCT OR TRANSACT BUSINESS IN
42 THIS STATE SHALL BE SUSPENDED. SUCH SUSPENSION SHALL BE ANNULLED UPON
43 THE FILING OF A CERTIFICATE OF AMENDMENT WITH THE REQUIRED CONSENT OR
44 APPROVAL ANNEXED THERETO.

45 S 2. Paragraphs (b) and (e) of section 201 of the business corporation
46 law, paragraph (b) as amended by chapter 182 of the laws of 1981, and
47 paragraph (e) as amended by section 71 of part A of chapter 58 of the
48 laws of 2010, are amended to read as follows:

49 (b) [The] CERTIFICATION THAT approval of the industrial board of
50 appeals HAS BEEN OBTAINED is required for the filing with the department
51 of state of any certificate of incorporation, certificate of merger or
52 consolidation or application of a foreign corporation for authority to
53 do business in this state which states as the purpose or one of the
54 purposes of the corporation the formation of an organization of groups

1 of working men or women or wage earners, or the performance, rendition
2 or sale of services as labor consultant or as advisor on labor-manage-
3 ment relations or as arbitrator or negotiator in labor-management
4 disputes.

5 (e) A corporation may not include as its purpose or among its purposes
6 the establishment or maintenance of a hospital or facility providing
7 health related services, as those terms are defined in article twenty-
8 eight of the public health law unless its certificate of incorporation
9 shall so state and such certificate [shall have annexed thereto the]
10 INCLUDES A CERTIFICATION THAT approval of the public health and health
11 planning council OF SUCH PURPOSE HAS BEEN OBTAINED.

12 S 3. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of
13 the business corporation law, as amended by chapter 155 of the laws of
14 2012, is amended to read as follows:

15 (B) Shall not contain any of the following words, or any abbreviation
16 or derivative thereof:

17 acceptance	endowment	loan
18 annuity	fidelity	mortgage
19 assurance	finance	savings
20 bank	guaranty	surety
21 benefit	indemnity	title
22 bond	insurance	trust
23 casualty	investment	underwriter
24 doctor	lawyer	

25 unless the [approval of the superintendent of financial services is
26 attached to the] certificate of incorporation, or application for
27 authority or amendment thereof INCLUDES A CERTIFICATION THAT APPROVAL OF
28 THE SUPERINTENDENT OF FINANCIAL SERVICES HAS BEEN OBTAINED; or [that]
29 UNLESS the word "doctor" or "lawyer" or an abbreviation or derivation
30 thereof is used in the name of a university faculty practice corporation
31 formed pursuant to section fourteen hundred twelve of the not-for-profit
32 corporation law or a professional service corporation formed pursuant to
33 article fifteen of this chapter, or a foreign professional service
34 corporation authorized to do business in this state pursuant to article
35 fifteen-A of this chapter, the members or shareholders of which are
36 composed exclusively of doctors or lawyers, respectively, or are used in
37 a context which clearly denotes a purpose other than the practice of law
38 or medicine.

39 S 4. Subparagraphs 6, 7 and 11 of paragraph (a) of section 301 of the
40 business corporation law, subparagraph 7 as amended by chapter 555 of
41 the laws of 1978 and subparagraph 11 as added by chapter 316 of the laws
42 of 2005, are amended to read as follows:

43 (6) Shall not, unless [the approval of the state board of standards
44 and appeals is attached to] the certificate of incorporation, or appli-
45 cation for authority or amendment thereof INCLUDES A CERTIFICATION THAT
46 THE APPROVAL OF THE STATE BOARD OF STANDARDS AND APPEALS HAS BEEN
47 OBTAINED, contain any of the following words or phrases, or any abbrevi-
48 ation or derivative thereof: union, labor, council, industrial organ-
49 ization, in a context which indicates or implies that the domestic
50 corporation is formed or the foreign corporation authorized as an organ-
51 ization of working men or women or wage earners or for the performance,
52 rendition or sale of services as labor or management consultant, adviser
53 or specialist, or as negotiator or arbitrator in labor-management
54 disputes.

55 (7) Shall not, unless [the approval of the state department of social
56 services is attached to] the certificate of incorporation, or applica-

tion for authority or amendment thereof INCLUDES A CERTIFICATION THAT THE APPROVAL OF THE STATE DEPARTMENT OF SOCIAL SERVICES HAS BEEN OBTAINED, contain the word "blind" or "handicapped". Such approval shall be granted by the state department of social services, if in its opinion the word "blind" or "handicapped" as used in the corporate name proposed will not tend to mislead or confuse the public into believing that the corporation is organized for charitable or non-profit purposes related to the blind or the handicapped.

(11) Shall not, unless [the consent of the commissioner of education is endorsed on or annexed to] the certificate of incorporation INCLUDES A CERTIFICATION THAT THE CONSENT OF THE COMMISSIONER OF EDUCATION HAS BEEN OBTAINED, contain the words "school;" "education;" "elementary;" "secondary;" "kindergarten;" "prekindergarten;" "preschool;" "nursery school;" "museum;" "history;" "historical;" "historical society;" "arboretum;" "library;" "college;" "university" 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. Such consent shall not be granted by the commissioner of education, if in the commissioner's opinion, the use of such terms in the corporate name is likely to mislead or confuse the public into believing that the corporation is organized for non-profit educational purposes or for educational business purposes that are not specified in the corporate purposes and powers contained in its certificate of incorporation.

S 5. Section 406 of the business corporation law, as amended by chapter 558 of the laws of 1999, is amended to read as follows:

S 406. Filing of a certificate of incorporation; facility for alcoholism or alcohol abuse, substance abuse, substance dependence, or chemical abuse or dependence.

Every certificate of incorporation which includes among its corporate purposes the establishment or operation of a program of services for alcoholism or alcohol abuse, substance abuse, substance dependence, or chemical abuse or dependence shall [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the commissioner of the state office of alcoholism and substance abuse services OF THE PURPOSES HAS BEEN OBTAINED.

S 6. Paragraph (a) of section 806 of the business corporation law is amended to read as follows:

(a) The department of state shall not file a certificate of amendment reviving the existence of a corporation unless THE CERTIFICATE OF AMENDMENT INCLUDES A CERTIFICATION THAT the consent of the state tax commission to the revival [is delivered to the department] HAS BEEN OBTAINED. If the name of the corporation being revived is not available under section 301 (Corporate name; general) for use by a corporation then being formed under this chapter, the certificate of amendment shall change the name to one which is available for such use.

S 7. Paragraph (a) of section 1003 of the business corporation law is amended by adding two new subparagraphs 6 and 7 to read as follows:

(6) A CERTIFICATION THAT CONSENT OF THE DEPARTMENT OF TAXATION AND FINANCE TO THE DISSOLUTION HAS BEEN OBTAINED.

(7) WITH RESPECT TO ANY CORPORATION THAT HAS DONE BUSINESS IN THE CITY OF NEW YORK AND INCURRED LIABILITY FOR ANY TAX OR CHARGE UNDER CHAPTER SIX, SEVEN, EIGHT, TEN, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, TWENTY-ONE, TWENTY-FOUR, TWENTY-FIVE OR TWENTY-SEVEN OF TITLE ELEVEN OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, A CERTIFICATION THAT CONSENT OF THE COMMISSIONER OF FINANCE OF THE CITY OF NEW YORK TO THE DISSOLUTION HAS BEEN OBTAINED.

1 S 8. Paragraph (a) of section 1004 of the business corporation law, as
2 amended by chapter 201 of the laws of 2009, is amended to read as
3 follows:

4 (a) [The department shall not file such certificate unless the consent
5 of the state department of taxation and finance to the dissolution is
6 attached thereto.] Upon [such] filing SUCH CERTIFICATE, the corporation
7 is dissolved.

8 S 9. Paragraph (b) of section 1004 of the business corporation law is
9 REPEALED.

10 S 10. Subparagraph 8 of paragraph (a) of section 1304 of the business
11 corporation law, as amended by chapter 684 of the laws of 1963 and as
12 renumbered by chapter 590 of the laws of 1982, is amended to read as
13 follows:

14 (8) A statement that the foreign corporation has not since its incor-
15 poration or since the date its authority to do business in this state
16 was last surrendered, engaged in any activity in this state, except as
17 set forth in paragraph (b) of section 1301 (Authorization of foreign
18 corporations), or in lieu thereof A CERTIFICATION THAT the consent of
19 the state tax commission to the filing of the application[, which
20 consent shall be attached thereto] HAS BEEN OBTAINED.

21 S 11. Paragraph (a) of section 1310 of the business corporation law is
22 amended by adding a new subparagraph 7 to read as follows:

23 (7) A CERTIFICATION THAT CONSENT OF THE DEPARTMENT OF TAXATION AND
24 FINANCE TO THE SURRENDER OF AUTHORITY HAS BEEN OBTAINED.

25 S 12. Paragraph (b) of section 1310 of the business corporation law is
26 REPEALED, and paragraphs (c) and (d) are relettered (b) and (c).

27 S 13. Section 216 of the education law, as amended by chapter 901 of
28 the laws of 1972, and the closing paragraph as added by chapter 316 of
29 the laws of 2005, is amended to read as follows:

30 S 216. Charters. Under such name, with such number of trustees or
31 other managers, and with such powers, privileges and duties, and subject
32 to such limitations and restrictions in all respects as the regents may
33 prescribe in conformity to law, they may, by an instrument under their
34 seal and recorded in their office, incorporate any university, college,
35 academy, library, museum, or other institution or association for the
36 promotion of science, literature, art, history or other department of
37 knowledge, or of education in any way, associations of teachers,
38 students, graduates of educational institutions, and other associations
39 whose approved purposes are, in whole or in part, of educational or
40 cultural value deemed worthy of recognition and encouragement by the
41 university. No institution or association which might be incorporated by
42 the regents under this chapter shall, without their consent, be incorpo-
43 rated under any other general law. An institution or association which
44 might be incorporated by the regents under this chapter may, with the
45 consent of the commissioner of education, be formed under the business
46 corporation law or pursuant to the not-for-profit corporation law if
47 [such consent of the commissioner of education is attached to] its
48 certificate of incorporation INCLUDES A CERTIFICATION THAT CONSENT OF
49 THE COMMISSIONER OF EDUCATION TO THE INCORPORATION OF SUCH INSTITUTION
50 OR ASSOCIATION HAS BEEN OBTAINED. No individual, association, partner-
51 ship, company or corporation not authorized by special charter from the
52 legislature of this state or by charter from the regents to operate a
53 museum, or arboretum shall knowingly use, advertise or transact business
54 under the names "museum," or "arboretum," or any name, title or descrip-
55 tive material indicating or tending to imply that said individual, asso-
56 ciation, partnership, company or corporation conducts, carries on, or is

1 such a business when it is not, or that it is authorized to operate as
2 such, unless the right to do so has been granted by the regents or the
3 commissioner in writing. Any violation of this paragraph shall be a
4 misdemeanor. Notwithstanding any other provision of this section, an
5 individual, association, partnership, company or corporation doing busi-
6 ness under any of such names on the effective date of this paragraph may
7 come into compliance with this paragraph by obtaining consent of the
8 regents or the commissioner within one year of such effective date.

9 S 14. Paragraph (c) of subdivision 2 of section 130 of the general
10 business law, as amended by chapter 316 of the laws of 2005, is amended
11 to read as follows:

12 (c) No corporation, limited partnership or limited liability company
13 shall use or file a certificate for the use of any name or designation
14 to carry on or conduct or transact business in this state which consists
15 of or includes a word or words the use of which is prohibited or
16 restricted by subparagraphs three through eleven of paragraph (a) of
17 section three hundred one of the business corporation law or subpara-
18 graphs three through nine of paragraph (a) of section three hundred one
19 and paragraph (w) of section four hundred four of the not-for-profit
20 corporation law, or paragraph three of subdivision (a) of section
21 121-102 of the partnership law, or subdivisions (d) through (i) of
22 section two hundred four of the limited liability company law, respec-
23 tively, [without having obtained any necessary] UNLESS SUCH CERTIFICATE
24 INCLUDES A CERTIFICATION THAT SUCH consents or approvals which would
25 permit the use of the word or words pursuant to such laws HAS BEEN
26 OBTAINED, OR WHERE REQUIRED BY STATUTE, SUCH CERTIFICATE HAS CONSENTS OR
27 APPROVALS ENDORSED THEREON OR ARE ANNEXED THERETO.

28 S 15. Subdivision 11 of section 130 of the general business law, as
29 added by chapter 316 of the laws of 2005, is amended to read as follows:

30 11. Notwithstanding any other provision of this section, an education
31 corporation may not file a certificate under this section with the
32 secretary of state, unless SUCH CERTIFICATE INCLUDES A CERTIFICATION
33 THAT the consent of the board of regents [is endorsed on or annexed
34 thereto] HAS BEEN OBTAINED. Nothing in this subdivision shall invali-
35 date a certificate lawfully filed by an education corporation pursuant
36 to this section prior to the effective date of this subdivision.

37 S 16. Subdivision (f) of section 204 of the limited liability company
38 law, as amended by chapter 155 of the laws of 2012, is amended to read
39 as follows:

40 (f) shall not contain the following words, or any abbreviation
41 or derivative thereof:

42 acceptance	guaranty
43 annuity	indemnity
44 assurance	insurance
45 attorney	investment
46 bank	lawyer
47 benefit	loan
48 bond	mortgage
49 casualty	savings
50 doctor	surety
51 endowment	title
52 fidelity	trust
53 finance	underwriter

54 unless the [approval of the superintendent of financial services is
55 attached to the] articles of organization INCLUDE A CERTIFICATION THAT
56 APPROVAL OF THE SUPERINTENDENT OF FINANCIAL SERVICES HAS BEEN OBTAINED

1 or unless the word "doctor" or "lawyer" or an abbreviation or derivative
2 thereof is used in a context that clearly denotes a purpose other than
3 the practice of law or medicine;

4 S 17. Subdivisions (g) and (i) of section 204 of the limited liability
5 company law, subdivision (i) as added by chapter 316 of the laws of
6 2005, are amended to read as follows:

7 (g) shall not, unless [the approval of the state department of social
8 services is attached to] the articles of organization or application for
9 authority INCLUDE A CERTIFICATION THAT THE APPROVAL OF THE STATE DEPART-
10 MENT OF SOCIAL SERVICES HAS BEEN OBTAINED, contain the word "blind" or
11 "handicapped." Such approval shall be granted by the state department of
12 social services if in its opinion the word "blind" or "handicapped" as
13 used in the limited liability company's proposed name will not tend to
14 mislead or confuse the public into believing that the limited liability
15 company is organized for charitable or nonprofit purposes related to the
16 blind or the handicapped; and

17 (i) shall not, UNLESS THE ARTICLES OF ORGANIZATION OR APPLICATION FOR
18 AUTHORITY INCLUDE A CERTIFICATION THAT THE CONSENT OF THE COMMISSIONER
19 OF EDUCATION HAS BEEN OBTAINED, contain the following terms: "school,"
20 "education," "elementary," "secondary," "kindergarten," "prekindergar-
21 ten," "preschool," "nursery school," "museum," "history," "historical,"
22 "historical society," "arboretum," "library," "college," "university" or
23 other term restricted by section two hundred twenty-four of the educa-
24 tion law; "conservatory," "academy," or "institute" or any abbreviation
25 or derivative of such terms[, shall have endorsed thereon or annexed
26 thereto the consent of the commissioner of education].

27 S 18. Section 209 of the limited liability company law is amended to
28 read as follows:

29 S 209. Filing with the department of state. A signed articles of
30 organization and any signed certificate of amendment or other certif-
31 icates filed pursuant to this chapter or of any judicial decree of
32 amendment or cancellation shall be delivered to the department of state.
33 If the instrument that is delivered to the department of state for
34 filing complies as to form with the requirements of law and the filing
35 fee required by any statute of this state in connection therewith has
36 been paid, the instrument shall be filed and indexed by the department
37 of state. The department of state shall not review such articles or
38 certificates for legal sufficiency; its review shall be limited to
39 determining that the form has been completed. UPON THE WRITTEN NOTIFICA-
40 TION TO THE DEPARTMENT OF STATE BY ANY STATE OFFICIAL, DEPARTMENT,
41 BOARD, AGENCY OR OTHER BODY THAT A DOMESTIC LIMITED LIABILITY COMPANY OR
42 FOREIGN AUTHORIZED LIMITED LIABILITY COMPANY HAS FAILED TO OBTAIN THE
43 CONSENT OR APPROVAL OF SUCH STATE OFFICIAL, DEPARTMENT, BOARD, AGENCY OR
44 OTHER BODY FOR ANY CERTIFICATE OR INSTRUMENT, THE LIMITED LIABILITY
45 COMPANY'S AUTHORITY TO CARRY ON, CONDUCT OR TRANSACT BUSINESS IN THIS
46 STATE SHALL BE SUSPENDED. SUCH SUSPENSION SHALL BE ANNULLED UPON THE
47 FILING OF A CERTIFICATE OF AMENDMENT WITH THE REQUIRED CONSENT OR
48 APPROVAL ANNEXED THERETO.

49 S 19. Clause (B) of subparagraph 5 of paragraph (a) of section 301 of
50 the not-for-profit corporation law, as amended by chapter 155 of the
51 laws of 2012, is amended to read as follows:

52 (B) Shall not contain any of the following words, or any abbreviation
53 or derivative thereof:

54 acceptance

fidelity

mortgage

1	annuity	finance	savings
2	assurance	guaranty	surety
3	bank	indemnity	title
4	bond	insurance	trust
5	casualty	investment	underwriter
6	doctor	lawyer	
7	endowment	loan	

8 unless [the approval of the superintendent of financial services is
9 attached to] the certificate of incorporation, or application for
10 authority or amendment thereof[;] INCLUDES A CERTIFICATION THAT THE
11 APPROVAL OF THE SUPERINTENDENT OF FINANCIAL SERVICES HAS BEEN OBTAINED,
12 or [that] UNLESS the word "doctor", OR "lawyer", or the phrase "state
13 police" or "state trooper" or an abbreviation or derivation thereof,
14 [may be] IS used ONLY in the name of a corporation the membership of
15 which is composed exclusively of doctors, lawyers, state policemen or
16 state troopers, respectively.

17 S 20. Section 404 of the not-for-profit corporation law, as amended by
18 chapter 139 of the laws of 1993, paragraph (b) as amended by section 4
19 of part D of chapter 58 of the laws of 2006, paragraphs (c), (k) and (l)
20 as further amended by section 104 of part A of chapter 62 of the laws of
21 2011, paragraphs (a), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l),
22 (m), (n) and (r) as relettered by chapter 431 of the laws of 1993, para-
23 graph (g) as separately amended by chapter 201 of the laws of 1993,
24 paragraphs (o), (p) and (t) as amended by section 79 of part A of chap-
25 ter 58 of the laws of 2010, paragraph (q) as amended by chapter 198 of
26 the laws of 2010, paragraph (u) as amended by chapter 558 of the laws of
27 1999, paragraph (v) as added by chapter 598 of the laws of 2000 and as
28 further amended by section 104 of part A of chapter 62 of the laws of
29 2011, paragraph (w) as amended by chapter 316 of the laws of 2005, is
30 amended to read as follows:

31 S 404. Approvals and consents.

32 (a) Every certificate of incorporation which includes among its
33 purposes the formation of a trade or business association shall have
34 endorsed thereon or annexed thereto the consent of the attorney-general.

35 (b) (1) Every certificate of incorporation which includes among its
36 purposes the care of destitute, delinquent, abandoned, neglected or
37 dependent children; the establishment or operation of any adult care
38 facility, or the establishment or operation of a residential program for
39 victims of domestic violence as defined in subdivision four of section
40 four hundred fifty-nine-a of the social services law, or the placing-out
41 or boarding-out of children or a home or shelter for unmarried mothers,
42 excepting the establishment or maintenance of a hospital or facility
43 providing health-related services as those terms are defined in article
44 twenty-eight of the public health law and a facility for which an oper-
45 ating certificate is required by articles sixteen, nineteen, twenty-two
46 and thirty-one of the mental hygiene law; or the solicitation of
47 contributions for any such purpose or purposes, shall [have endorsed
48 thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of
49 the commissioner of the office of children and family services, or with

1 respect to any adult care facility, the commissioner of health, OF SUCH
2 PURPOSE HAS BEEN OBTAINED.

3 (2) A corporation whose statement of purposes specifically includes
4 the establishment or operation of a child day care center, as that term
5 is defined in section three hundred ninety of the social services law,
6 shall provide a certified copy of the certificate of incorporation, each
7 amendment thereto, and any certificate of merger, consolidation or
8 dissolution involving such corporation to the office of children and
9 family services within thirty days after the filing of such certificate,
10 amendment, merger, consolidation or dissolution with the department of
11 state. This requirement shall also apply to any foreign corporation
12 filing an application for authority under section thirteen hundred four
13 of this chapter, any amendments thereto, and any surrender of authority
14 or termination of authority in this state of such corporation.

15 (c) Every certificate of incorporation which includes among the
16 purposes of the corporation, the establishment, maintenance and opera-
17 tion of a hospital service or a health service or a medical expense
18 indemnity plan or a dental expense indemnity plan as permitted in arti-
19 cle forty-three of the insurance law, shall [have endorsed thereon or
20 annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the super-
21 intendent of financial services and the commissioner of health OF SUCH
22 PURPOSE HAS BEEN OBTAINED.

23 (d) Every certificate of incorporation which includes a purpose for
24 which a corporation might be chartered by the regents of the university
25 of the State of New York shall [have endorsed thereon or annexed there-
26 to] INCLUDE A CERTIFICATION THAT the consent of the commissioner of
27 education TO SUCH PURPOSE HAS BEEN OBTAINED.

28 (e) Every certificate of incorporation of a cemetery corporation,
29 except those within the exclusionary provisions of section 1503 (Ceme-
30 tery corporations) shall [have endorsed thereon or annexed thereto]
31 INCLUDE A CERTIFICATION THAT the approval of the cemetery board OF SUCH
32 PURPOSE HAS BEEN OBTAINED.

33 (f) Every certificate of incorporation of a fire corporation shall
34 [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT
35 the approval, signed and acknowledged, of the authorities of each city,
36 village, town or fire district in which the corporation proposes to act,
37 OF SUCH PURPOSE HAS BEEN OBTAINED. Such authorities shall be: in a city,
38 the mayor; in a village, a majority of the trustees; in a town, a major-
39 ity of the members of the town board; in a fire district, a majority of
40 the fire commissioners. The members of the town board of a town, or the
41 trustees of a village, shall not consent to the formation of a fire
42 corporation as hereinbefore provided, until such board shall have held a
43 public hearing on the question of whether the fire company should be
44 incorporated. The notice shall be published at least once in each week
45 for two successive weeks in the official newspaper published in the
46 county in which such fire corporation intends to locate, prior to the
47 regular meeting of such board designated by the chairman of the board to
48 consider the matter. Such notice shall contain the name of the proposed
49 company, the names of the persons signing the certificate of incorpo-
50 ration, a brief description of the territory to be protected by the fire
51 company and that all persons interested shall be heard. If no newspaper
52 is published in the county the publication of the notice shall be in a
53 newspaper in an adjoining county selected by the chairman of such board.
54 All expenses in connection with such publication shall be borne by the
55 parties making the application and paid before the hearing.

(g) Every certificate of incorporation of a corporation for prevention of cruelty to animals shall [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the American Society for the Prevention of Cruelty to Animals OF SUCH PURPOSE HAS BEEN OBTAINED, 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.

(h) Every certificate of incorporation of a Young Men's Christian Association shall [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the chairman of the national board of Young Men's Christian Associations OF SUCH PURPOSE HAS BEEN OBTAINED.

(i) Every certificate of incorporation which indicates that the proposed corporation is 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] INCLUDE A CERTIFICATION THAT the approval of the chief of staff OF SUCH PURPOSE HAS BEEN OBTAINED.

(j) Every certificate of incorporation which includes among its purposes the organization of wage-earners for their mutual betterment, protection and advancement; the regulation of hours of labor, working conditions, or wages; or the performance, rendition or sale of services as labor consultant, labor-management advisor, negotiator, arbitrator, or specialist; and every certificate of incorporation in which the name of the proposed corporation includes "union", "labor", "council" or "industrial organization", or any abbreviation or derivative thereof in a context that indicates or implies that the corporation is formed for any of the above purposes, shall [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the industrial board of appeals OF SUCH PURPOSE HAS BEEN OBTAINED. The board shall make such inquiry into the purposes of the proposed corporation as it shall deem advisable and shall order a hearing if necessary to determine whether or not such purposes are in all respects consistent with public policy and the labor law. Notice of the time and place of hearing shall be given to the applicants and such other persons as the board may determine.

(k) Every certificate of incorporation for a corporation which has as its exclusive purpose the promotion of the interests of savings bank life insurance or the promotion of the interests of member banks may, if the CERTIFICATE INCLUDES A CERTIFICATION THAT approval of the superintendent of financial services [is endorsed thereon or annexed thereto] HAS BEEN OBTAINED, use as a part of the corporate name any of the words or phrases, or any abbreviation or derivative thereof, set forth in subparagraph (5) of paragraph (a) of section 301 (Corporate name; general).

(l) Every certificate of incorporation for a corporation which has as its exclusive purpose the creation of an association of licensed insurance agents, licensed insurance brokers, or licensed insurance underwriters and every application for authority of a foreign corporation which is an independent laboratory engaged in testing for public safety, or which has as its purpose the advancement of corporate, governmental, and institutional risk and insurance management, or which has as its exclusive purpose the creation of an association of insurers, each of which is duly licensed in this state or, if it does no business or is not licensed in this state, is duly licensed in another state or foreign jurisdiction may, if the CERTIFICATE INCLUDES A CERTIFICATION THAT

1 approval of the superintendent of financial services [is endorsed there-
2 on or annexed thereto] HAS BEEN OBTAINED, use as a part of the corporate
3 name any of the words or phrases, or any abbreviation or derivative
4 thereof, set forth in subparagraph (5) of paragraph (a) of section 301
5 (Corporate name; general).

6 (m) Every certificate of incorporation in which the name of the
7 proposed corporation includes the name of a political party shall [have
8 endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the
9 consent of the chairman of the county committee of such political party
10 of the county in which the office of the corporation is to be located
11 HAS BEEN OBTAINED, except in cases where the supreme court finds that
12 the withholding of such consent of the county chairman is unreasonable.

13 (n) Every certificate of incorporation in which the name of the
14 proposed corporation includes the words "American Legion," shall [have
15 endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the
16 approval of the Department of New York, the American Legion, duly
17 acknowledged by its commander or adjutant HAS BEEN OBTAINED.

18 (o) Every certificate of incorporation which includes among its corpo-
19 rate purposes or powers the establishment or maintenance of any hospi-
20 tal, as defined in article twenty-eight of the public health law, or the
21 solicitation of contributions for any such purpose, or purposes, shall
22 [have endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT
23 the approval of the public health and health planning council OF SUCH
24 PURPOSE HAS BEEN OBTAINED.

25 (p) Every certificate of incorporation of a medical corporation as
26 defined in article forty-four of the public health law and organized
27 pursuant thereto and pursuant to this chapter, shall [have endorsed
28 thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the consent of
29 the commissioner of health TO and the approval of the public health and
30 health planning council OF SUCH PURPOSE HAS BEEN OBTAINED.

31 (q) Every certificate of incorporation which includes among its corpo-
32 rate purposes or powers the establishment, or operation of a facility
33 for which an operating certificate from the commissioner of mental
34 health is required by article thirty-one of the mental hygiene law, or
35 the solicitation of contributions for any such purpose, shall [have
36 endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the
37 approval of the commissioner of mental health OF SUCH PURPOSE HAS BEEN
38 OBTAINED.

39 (r) Every certificate of incorporation of a health maintenance organ-
40 ization as defined in article forty-four of the public health law and
41 organized pursuant thereto and pursuant to this chapter, shall [have
42 endorsed thereon or annexed thereto] INCLUDE A CERTIFICATION THAT the
43 consent of the commissioner of health TO SUCH PURPOSE HAS BEEN OBTAINED.

44 (t) Every certificate of incorporation which includes among its
45 purposes and powers the establishment or maintenance of a hospital or
46 facility providing health related services, as those terms are defined
47 in article twenty-eight of the public health law, or the solicitation of
48 contributions for any such purpose or two or more of such purposes,
49 shall [have endorsed thereon] INCLUDE A CERTIFICATION THAT the approval
50 of the public health and health planning council OF SUCH PURPOSE HAS
51 BEEN OBTAINED.

52 (u) Every certificate of incorporation which includes among the
53 purposes of the corporation, the establishment or operation of a
54 substance abuse, substance dependence, alcohol abuse, alcoholism, or
55 chemical abuse or dependence program, or the solicitation of contrib-
56 utions for any such purpose, shall [have endorsed thereon or annexed

thereto] INCLUDE A CERTIFICATION THAT the consent of the commissioner of the office of alcoholism and substance abuse services to its filing by the department of state TO SUCH PURPOSE HAS BEEN OBTAINED.

(v) 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] INCLUDE A CERTIFICATION THAT the approval of the superintendent of financial services OF SUCH PURPOSE HAS BEEN OBTAINED.

(w) 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" 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] INCLUDE A CERTIFICATION THAT the consent of the commissioner of education HAS BEEN OBTAINED.

S 21. Paragraphs (a) and (b) of section 804 of the not-for-profit corporation law, as amended by chapter 139 of the laws of 1993, subparagraph (i) of paragraph (a) as amended by chapter 198 of the laws of 2010, are amended to read as follows:

(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 AS REQUIRED BY STATUTE, SUCH CONSENT OR APPROVAL is endorsed on or annexed to OR the certificate of amendment INCLUDES A CERTIFICATION THAT SUCH CONSENT OR APPROVAL HAS BEEN OBTAINED.

(ii) Every certificate of amendment of a corporation [classified as type B or type C under section 201 (Purposes)] FORMED FOR THE PURPOSES SPECIFIED IN SUBPARAGRAPH TWO OR THREE OF PARAGRAPH (B) OF 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] INCLUDE A CERTIFICATION THAT the approval of a justice of the supreme court of the judicial district in which the office of the corporation is located HAS BEEN OBTAINED. Ten days' written notice of the application for such approval shall be given to the attorney-general.

(b) The department of state shall not file a certificate of amendment reviving the existence of a corporation unless THE CERTIFICATE INCLUDES A CERTIFICATION THAT the REQUIRED consent or approval of a governmental body or officer or any other person or body [required to be endorsed on or annexed to the certificate of incorporation of a corporation formed for similar purposes, is attached thereto] HAS BEEN OBTAINED, or, if notice to the attorney-general was required prior to the filing of its certificate of incorporation, the certificate of amendment should indicate that such notice has been given as required by law.

S 22. 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:

1 S 909. Consent to filing.

2 If the purposes of any constituent or consolidated corporation would
3 require the approval or consent of any governmental body or officer or
4 any other person or body under section 404 (Approvals and consents) no
5 certificate of merger or consolidation shall be filed pursuant to this
6 article unless THE CERTIFICATE INCLUDES A CERTIFICATION THAT such
7 approval OF or consent [is endorsed thereon or annexed thereto] TO SUCH
8 PURPOSE HAS BEEN OBTAINED OR WHERE REQUIRED BY STATUTE, SUCH APPROVAL OR
9 CONSENT IS ENDORSED THEREON OR ANNEXED THERETO. A corporation whose
10 statement of purposes specifically includes the establishment or opera-
11 tion of a child day care center, as that term is defined in section
12 three hundred ninety of the social services law, shall provide a certi-
13 fied copy of any certificate of merger or consolidation involving such
14 corporation to the office of children and family services within thirty
15 days after the filing of such merger or consolidation with the depart-
16 ment of state.

17 S 23. Paragraph (a) of section 1003 of the not-for-profit corporation
18 law is amended by adding two new subparagraphs 8 and 9 to read as
19 follows:

20 (8) A CERTIFICATION THAT THE CONSENT OF THE DEPARTMENT OF TAXATION AND
21 FINANCE TO THE DISSOLUTION HAS BEEN OBTAINED.

22 (9) WITH RESPECT TO ANY CORPORATION THAT HAS DONE BUSINESS IN THE CITY
23 OF NEW YORK AND INCURRED LIABILITY FOR ANY TAX OR CHARGE UNDER CHAPTER
24 SIX, SEVEN, EIGHT, TEN, ELEVEN, TWELVE, THIRTEEN, FOURTEEN, TWENTY-ONE,
25 TWENTY-FOUR, TWENTY-FIVE OR TWENTY-SEVEN OF TITLE ELEVEN OF THE ADMINIS-
26 TRATIVE CODE OF THE CITY OF NEW YORK, A CERTIFICATION THAT CONSENT OF
27 THE COMMISSIONER OF FINANCE OF THE CITY OF NEW YORK TO THE DISSOLUTION
28 HAS BEEN OBTAINED.

29 S 24. Paragraph (a) of section 1004 of the not-for-profit corporation
30 law, as amended by chapter 201 of the laws of 2009, is amended to read
31 as follows:

32 (a) [The department of state shall not file a certificate of dissol-
33 ution unless the consent of the state department of taxation and finance
34 to the dissolution is attached thereto.] Upon filing the certificate,
35 the corporation is dissolved.

36 S 25. Paragraph (b) of section 1004 of the not-for-profit corporation
37 law is REPEALED.

38 S 26. Subparagraph 8 of paragraph (a) and paragraph (c) of section
39 1304 of the not-for-profit corporation law, subparagraph 8 of paragraph
40 (a) as renumbered by chapter 590 of the laws of 1982, are amended to
41 read as follows:

42 (8) A statement that the foreign corporation has not, since its incor-
43 poration or since the date its authority to conduct activities in this
44 state was last surrendered, done any act in this state, except as set
45 forth in paragraph (b) of section 1301 (Authorization of foreign corpo-
46 rations); or in lieu of such statement A CERTIFICATION THAT the consent
47 of the state tax commission to the filing of the application [shall be
48 attached thereto] HAS BEEN OBTAINED.

49 (c) If the application for authority sets forth any purpose or activ-
50 ity for which a domestic corporation could be formed only with the
51 consent or approval of any governmental body or officer, or other person
52 or body under section 404 (Approvals and consents), such APPLICATION
53 SHALL INCLUDE A CERTIFICATION THAT THE consent TO or approval [shall be
54 endorsed thereon or annexed thereto] OF SUCH PURPOSE HAS BEEN OBTAINED,
55 OR WHERE REQUIRED BY STATUTE, SUCH APPROVAL OR CONSENT IS ENDORSED THER-
56 EON OR ANNEXED THERETO.

1 S 27. Paragraph (c) of section 1309 of the not-for-profit corporation
2 law, as added by chapter 961 of the laws of 1972, is amended to read as
3 follows:

4 (c) A certificate of amendment of application for authority shall not
5 be filed, if the amendment adds, changes or eliminates a purpose, power
6 or provision the inclusion of which in an application for authority
7 requires consent or approval of any governmental body or officer or
8 other person or body, or if the amendment changes the name of a corpo-
9 ration whose application for authority had such consent or approval
10 endorsed thereon or annexed thereto, unless such AMENDMENT INCLUDES A
11 CERTIFICATION THAT SUCH consent TO or approval [is endorsed on or
12 annexed to the certificate of amendment] of application for authority
13 HAS BEEN OBTAINED, OR WHERE REQUIRED BY STATUTE, SUCH APPROVAL OR
14 CONSENT IS ENDORSED THEREON OR ANNEXED THERETO.

15 S 28. Paragraph (a) of section 1311 of the not-for-profit corporation
16 law is amended by adding a new paragraph 7 to read as follows:

17 (7) A CERTIFICATION THAT CONSENT OF THE DEPARTMENT OF TAXATION AND
18 FINANCE TO THE SURRENDER OF AUTHORITY HAS BEEN OBTAINED.

19 S 29. Paragraph (c) of section 1311 of the not-for-profit corporation
20 law is REPEALED and paragraph (d) is relettered paragraph (c).

21 S 30. Paragraph (b) of section 1505 of the not-for-profit law, as
22 added by chapter 871 of the laws of 1977, is amended to read as follows:

23 (b) Cemetery board endorsement. Every certificate of incorporation
24 of a cemetery corporation, except those within the exclusionary
25 provisions of section fifteen hundred three, shall [have endorsed there-
26 on or annexed thereto] INCLUDE A CERTIFICATION THAT the approval of the
27 cemetery board as required in subdivision (e) of section four hundred
28 four of this chapter HAS BEEN OBTAINED.

29 S 31. Subparagraphs (A) and (B) of paragraph 3 of subdivision (a) of
30 section 121-102 of the partnership law, subparagraph (A) as amended by
31 chapter 316 of the laws of 2005, subparagraph (B) as amended by chapter
32 155 of the laws of 2012, are amended to read as follows:

33 (A) may not contain the following phrases or any abbreviation or
34 derivative thereof:

35 board of trade	state trooper
36 chamber of commerce	tenant relocation
37 community renewal	urban development
38 state police	urban relocation

39 Every certificate of limited partnership in which the name of the
40 proposed limited partnership includes the terms: "school," "education,"
41 "elementary," "secondary," "kindergarten," "prekindergarten,"
42 "preschool," "nursery school," "museum," "history," "historical,"
43 "historical society," "arboretum," "library," "college," "university" or
44 other term restricted by section two hundred twenty-four of the educa-
45 tion law; "conservatory," "academy," or "institute," or any abbreviation
46 or derivative of such terms, shall [have endorsed thereon or annexed
47 thereto] INCLUDE A CERTIFICATION THAT the consent of the commissioner of
48 education HAS BEEN OBTAINED.

49 (B) may not contain the following words, or any abbreviation or deriv-
50 ative thereof:

51 acceptance	indemnity
52 annuity	insurance
53 assurance	investment
54 bank	lawyer
55 benefit	loan
56 bond	mortgage

casualty	savings
doctor	surety
endowment	title
fidelity	trust
finance	underwriter
guaranty	

unless the [approval of the superintendent of financial services is attached to the] certificate of limited partnership INCLUDES A CERTIFICATION THAT THE APPROVAL OF THE SUPERINTENDENT OF FINANCIAL SERVICES HAS BEEN OBTAINED; or unless the word "doctor" or "lawyer" or an abbreviation or derivative thereof is used in a context which clearly denotes a purpose other than the practice of law or medicine.

S 32. Subparagraph (C) of paragraph 3 of subdivision (a) of section 121-102 of the partnership law, as added by chapter 264 of the laws of 1991, is amended to read as follows:

(C) shall not, unless [the approval of the state department of social services is attached to] the certificate of limited partnership or application for authority or amendment thereof INCLUDES A CERTIFICATION THAT THE APPROVAL OF THE STATE DEPARTMENT OF SOCIAL SERVICES HAS BEEN OBTAINED, contain the word "blind" or "handicapped". Such approval shall be granted by the state department of social services if in its opinion the word "blind" or "handicapped" as used in the limited partnership name proposed will not tend to mislead or confuse the public into believing that the limited partnership is organized for charitable or nonprofit purposes related to the blind or the handicapped.

S 33. Section 121-206 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

S 121-206. Filing with the department of state. A signed certificate of limited partnership and any signed certificates of amendment or other certificates filed pursuant to this article or of any judicial decree of amendment or cancellation shall be delivered to the department of state. If the instrument which is delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state in connection therewith has been paid, the instrument shall be filed and indexed by the department of state. UPON THE WRITTEN NOTIFICATION TO THE DEPARTMENT OF STATE BY ANY STATE OFFICIAL, DEPARTMENT, BOARD, AGENCY OR OTHER BODY THAT A DOMESTIC LIMITED PARTNERSHIP OR FOREIGN AUTHORIZED LIMITED PARTNERSHIP HAS FAILED TO OBTAIN THE CONSENT OR APPROVAL OF SUCH STATE OFFICIAL, DEPARTMENT, BOARD, AGENCY OR OTHER BODY FOR ANY CERTIFICATE OR INSTRUMENT, THE LIMITED PARTNERSHIP'S AUTHORITY TO CARRY ON, CONDUCT OR TRANSACT BUSINESS IN THIS STATE SHALL BE SUSPENDED. SUCH SUSPENSION SHALL BE ANNULLED UPON THE FILING OF A CERTIFICATE OF AMENDMENT WITH THE REQUIRED CONSENT OR APPROVAL ANNEXED THERETO.

S 34. Section 14 of the private housing finance law, as amended by chapter 544 of the laws of 1961, is amended to read as follows:

S 14. Consent of commissioner to incorporation. Whenever any such certificate shall be presented to the secretary of state, [he] THE SECRETARY shall not file such certificate unless [there shall accompany the same a] THE CERTIFICATE INCLUDES A CERTIFICATION THAT A certificate of the commissioner that he consents to the filing of such certificate HAS BEEN OBTAINED; nor shall any amendment to the certificate of incorporation be filed unless it [is accompanied by] INCLUDES A CERTIFICATION THAT a certificate of the commissioner consenting thereto HAS BEEN OBTAINED. If a company has entered into a contract with a municipality for the construction of a municipally aided project, the commissioner

1 shall not issue a certificate consenting to an amendment of the certifi-
2 cate of incorporation of such company, unless the supervising agency
3 has given its written consent to such amendment.

4 S 35. Subdivision 5 of section 573 of the private housing finance law,
5 as amended by chapter 410 of the laws of 1984, is amended to read as
6 follows:

7 5. The secretary of state shall not file the certificate of incorpo-
8 ration of any such corporation or any amendment thereto unless THE
9 CERTIFICATE INCLUDES A CERTIFICATION THAT the consent or approval of the
10 commissioner or the supervising agency, as the case may be, [is affixed
11 thereon or attached thereto] HAS BEEN OBTAINED. Consent to the filing of
12 such certificate of incorporation shall be based upon findings by the
13 commissioner or supervising agency as to the character and competence of
14 the sponsor.

15 S 36. Subdivision 1 of section 2801-a of the public health law, as
16 amended by section 57 of part A of chapter 58 of the laws of 2010, is
17 amended to read as follows:

18 1. No hospital, as defined in this article, shall be established
19 except with the written approval of the public health and health plan-
20 ning council. No certificate of incorporation of a business membership
21 or not-for-profit corporation shall hereafter be filed which includes
22 among its corporate purposes or powers the establishment or operation of
23 any hospital, as defined in this article, or the solicitation of
24 contributions for any such purpose, or two or more of such purposes,
25 except with the written approval of the public health and health plan-
26 ning council, and when otherwise required by law of a justice of the
27 supreme court, [endorsed on or annexed to] the certificate of incorpo-
28 ration INCLUDES A CERTIFICATION THAT SUCH WRITTEN APPROVAL HAS BEEN
29 OBTAINED. No articles of organization of a limited liability company
30 established pursuant to the New York limited liability company law which
31 includes among its powers or purposes the establishment or operation of
32 any hospital as defined in this article, shall be filed with the depart-
33 ment of state except [upon] WHEN THE ARTICLES OF ORGANIZATION INCLUDE A
34 CERTIFICATION THAT the approval of the public health and health planning
35 council HAS BEEN OBTAINED.

36 S 37. Section 41 of the transportation corporations law, as amended by
37 chapter 782 of the laws of 1969, is amended to read as follows:

38 S 41. Municipal consent to incorporation. No certificate of incorpo-
39 ration of a water-works corporation shall be filed unless [there be
40 annexed thereto a] THE CERTIFICATE INCLUDES A CERTIFICATION THAT consent
41 to the formation of the corporation, signed and acknowledged by the
42 local authorities of each municipality named in such certificate HAS
43 BEEN OBTAINED. Such authorities shall be: in a city, a majority of the
44 members of the board or body having charge of the water supply, or if
45 there be no such board or body, a majority of the members of the local
46 legislative body; in a village, a majority of the members of the board
47 of trustees; in a town outside of a village, the town superintendent of
48 highways and a majority of the members of the town board. Such consent
49 to the formation of the corporation shall not be granted by said local
50 authorities until ten days prior notice in writing of the application
51 for such consent and until an engineering plan for proposed water system
52 specifying location and size and type of wells, pumps, distribution
53 mains and other facilities of the water supply and/or distribution
54 system is furnished by the water works corporation to the local authori-
55 ties and to the county water authority, and to the county water district
56 if there be such authority or district where the proposed corporation

1 seeks to operate; and until said authority or district has reported in
2 writing to the municipality named in the certificate of incorporation
3 its recommendations as to whether or not such consent should be granted,
4 setting forth the reasons for such recommendation and a finding as to
5 whether the proposed water supply and/or distribution system is reason-
6 ably comparable to standards of a county-wide water system and suitable
7 for eventual integration with such county-wide water system. Said report
8 shall be filed with such municipality on or before the tenth day after
9 the giving of the notice aforesaid.

10 S 38. Subdivision 1 of section 116 of the transportation corporations
11 law, as amended by chapter 828 of the laws of 1970, is amended to read
12 as follows:

13 1. No certificate of incorporation of a sewage-works corporation shall
14 be filed unless [there be annexed thereto] THE CERTIFICATE INCLUDES A
15 CERTIFICATION THAT a certificate or certificates duly executed in behalf
16 of the local governing bodies of the city, town or village, as the case
17 may be, in which any part of a sewer system provided by such corporation
18 is situate and, in the county of Suffolk, an additional certificate duly
19 executed in behalf of the county sewer agency, consenting to the forma-
20 tion of the corporation for the area described in such certificate HAS
21 BEEN OBTAINED.

22 S 39. This act shall take effect immediately; provided however that
23 section twenty-three of this act shall take effect on the sixtieth day
24 after it shall have become a law.

25 SUBPART C

26 Section 1. Paragraph (a) of section 602 of the business corporation
27 law is amended to read as follows:

28 (a) Meetings of shareholders may be held at such place, within or
29 without this state, as may be fixed by or under the by-laws, or if not
30 so fixed, at the office of the corporation in this state. EXCEPT AS
31 PROVIDED IN THE BY-LAWS, SHAREHOLDERS MAY PARTICIPATE IN A MEETING BY
32 MEANS OF CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT BY
33 MEANS OF WHICH ALL PERSONS PARTICIPATING IN THE MEETING CAN HEAR EACH
34 OTHER. SUCH PARTICIPATION SHALL CONSTITUTE PRESENCE IN PERSON AT THE
35 MEETING.

36 S 2. Paragraph (b) of section 402 of the limited liability company law
37 is amended to read as follows:

38 (b) Except as provided in the operating agreement, any member may vote
39 in person [or], by proxy, OR BY ELECTRONIC MEANS.

40 S 3. Paragraphs (a) and (c) of section 603 of the not-for-profit
41 corporation law, paragraph (c) as amended by chapter 961 of the laws of
42 1972, are amended to read as follows:

43 (a) Meetings of members may be held at such place, within or without
44 this state, as may be fixed by or under the by-laws or, if not so fixed,
45 at the office of the corporation in this state. EXCEPT AS PROVIDED IN
46 THE BY-LAWS, MEMBERS MAY PARTICIPATE IN A MEETING BY MEANS OF CONFERENCE
47 TELEPHONE OR SIMILAR COMMUNICATIONS EQUIPMENT BY MEANS OF WHICH ALL
48 PERSONS PARTICIPATING IN THE MEETING CAN HEAR EACH OTHER. SUCH PARTIC-
49 IPATION SHALL CONSTITUTE PRESENCE IN PERSON AT THE MEETING.

50 (c) Special meetings of the members may be called by the board and by
51 such person or persons as may be authorized by the certificate of incor-
52 poration or the by-laws. In any case, such meetings may be convened by
53 the members entitled to cast ten per cent of the total number of votes
54 entitled to be cast at such meeting, who may, in writing, demand the

1 call of a special meeting specifying the date and month thereof, which
2 shall not be less than two nor more than three months from the date of
3 such written demand. The secretary of the corporation upon receiving the
4 written demand shall promptly give notice of such meeting, or if he
5 fails to do so within five business days thereafter, any member signing
6 such demand may give such notice. The meeting shall be held at the place
7 fixed in the by-laws or, if not so fixed, at the office of the corpo-
8 ration. EXCEPT AS PROVIDED IN THE BY-LAWS, MEMBERS MAY PARTICIPATE IN A
9 MEETING BY MEANS OF CONFERENCE TELEPHONE OR SIMILAR COMMUNICATIONS
10 EQUIPMENT BY MEANS OF WHICH ALL PERSONS PARTICIPATING IN THE MEETING CAN
11 HEAR EACH OTHER. SUCH PARTICIPATION SHALL CONSTITUTE PRESENCE IN PERSON
12 AT THE MEETING.

13 S 4. Paragraph (b) of section 121-405 of the partnership law, as added
14 by chapter 950 of the laws of 1990, is amended to read as follows:

15 (b) A partnership agreement may set forth provisions relating to
16 notice of the time, place or purpose of any meeting at which any matter
17 is to be voted on by any general partners, waiver of any such notice,
18 action by consent without a meeting, the establishment of a record date,
19 quorum requirements, voting in person [or], by proxy, OR BY ELECTRONIC
20 MEANS or any other matter with respect to the exercise of any such right
21 to vote.

22 S 5. This act shall take effect immediately.

23

SUBPART D

24 Section 1. Section 401 of the business corporation law, as amended by
25 chapter 900 of the laws of 1974, is amended to read as follows:

26 S 401. Incorporators.

27 One or more natural persons [of the age of] AT LEAST eighteen years
28 [or over] OF AGE OR ANY PARTNERSHIP, LIMITED LIABILITY COMPANY, OR
29 CORPORATION, SINGLY OR JOINTLY WITH OTHERS, may act as incorporators of
30 a corporation to be formed under this chapter.

31 S 2. Subdivisions (a) and (b) of section 203 of the limited liability
32 company law, subdivision (a) as amended by chapter 470 of the laws of
33 1997, is amended to read as follows:

34 (a) One or more NATURAL persons AT LEAST EIGHTEEN YEARS OF AGE OR ANY
35 PARTNERSHIP, LIMITED LIABILITY COMPANY, SINGLY OR JOINTLY WITH OTHERS,
36 may act as an organizer or organizers to form a limited liability compa-
37 ny by (i) preparing the articles of organization of such limited liabil-
38 ity company in accordance with subdivision (e) of this section, (ii)
39 executing such articles of organization in accordance with section two
40 hundred seven of this article and (iii) filing such articles, entitled
41 "Articles of organization of... (name of limited liability company)
42 under section two hundred three of the Limited Liability Company Law,"
43 in accordance with section two hundred nine of this article.

44 (b) An organizer may, but need not be, a member of the limited liabil-
45 ity company that he [or], she OR IT forms.

46 S 3. Section 401 of the not-for-profit corporation law, as amended by
47 chapter 901 of the laws of 1974, is amended to read as follows:

48 S 401. Incorporators.

49 One or more natural persons at least eighteen years of age OR ANY
50 PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION, SINGLY OR JOINT-
51 LY WITH OTHERS, may act as incorporators of a corporation to be formed
52 under this chapter.

53 S 4. This act shall take effect immediately.

1

SUBPART E

2 Section 1. Section 19 of the general associations law, as amended by
3 chapter 166 of the laws of 1991, is amended to read as follows:

4 S 19. Service of process. Service of process against an association
5 upon the secretary of state shall be made by personally delivering to
6 and leaving with [him] THE SECRETARY OF STATE or a deputy [secretary of
7 state or an associate attorney, senior attorney or attorney in the
8 corporation division of the department of state, duplicate copies of
9 such process], OR WITH ANY PERSON AUTHORIZED BY THE SECRETARY OF STATE
10 TO RECEIVE SUCH SERVICE at the office of the department of state in the
11 city of Albany, DUPLICATE COPIES OF SUCH PROCESS TOGETHER WITH THE STAT-
12 UTORY FEE, WHICH FEE SHALL BE A TAXABLE DISBURSEMENT. [At the time of
13 such service the plaintiff shall pay a fee of forty dollars to the
14 secretary of state which shall be a taxable disbursement. If the cost of
15 registered mail for transmitting a copy of the process shall exceed two
16 dollars, an additional fee equal to such excess shall be paid at the
17 time of the service of such process.] The secretary of state shall
18 [forthwith] PROMPTLY send by CERTIFIED registered mail one of such
19 copies OF SUCH PROCESS to the association at the address fixed for that
20 purpose, as herein provided. If the action or proceeding is instituted
21 in a court of limited jurisdiction, service of process may be made in
22 the manner provided in this section if the cause of action arose within
23 the territorial jurisdiction of the court and the office of the defend-
24 ant, as set forth in its statement filed pursuant to section eighteen of
25 this chapter, is within such territorial jurisdiction.

26 S 2. This act shall take effect immediately.

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

36 S 3. This act shall take effect immediately provided, however, that
37 the applicable effective date of Subparts A through E of this act shall
38 be as specifically set forth in the last section of such Subparts.

39

PART R

40 Section 1. Subdivisions 5, 6, 7-a, 10, 12, 13, 14, 15, 16 and 17 of
41 section 11-0701 of the environmental conservation law are REPEALED.

42 S 2. Subdivisions 4 and 8 of section 11-0701 of the environmental
43 conservation law are renumbered subdivisions 3 and 4 and subdivisions 1,
44 2, 3, 9-a and 11, subdivisions 1, 3 and 11 as amended by chapter 344 of
45 the laws of 2008, paragraph a of subdivision 2 as amended by chapter 57
46 of the laws of 1993, subparagraph 1 of paragraph a of subdivision 2 as
47 added by section 5 and paragraph b of subdivision 2 as amended by
48 section 6 of part F of chapter 82 of the laws of 2002, paragraph c of
49 subdivision 2 as amended by chapter 25 of the laws of 2011, and subdivi-
50 sion 9-a as added by chapter 237 of the laws of 1993, are amended to
51 read as follows:

52 1. [A small game license entitles a holder who is sixteen years of age
53 or older to hunt wildlife, except big game, and to take with a gun or

1 longbow fish permitted to be so taken, as provided in titles 9 and 13 of
2 this article.

3 2.] a. [(1)] A [small and big game] HUNTING license entitles the resi-
4 dent OR NON-RESIDENT holder WHO IS TWELVE YEARS OF AGE OR OLDER to hunt
5 wildlife, AS PROVIDED IN TITLE 9 OF THIS ARTICLE, subject to the follow-
6 ing:

7 (i) [a holder who is eighteen years of age or older may hunt wildlife
8 as provided in title 9 of this article,

9 (ii)] a holder who is sixteen OR SEVENTEEN years OLD [of age or older]
10 may hunt [wildlife, except] big game[, as provided in title 9] PURSUANT
11 TO THE PROVISIONS OF SECTION 11-0929 of this article, and

12 [(iii)] (II) a holder who is [between the ages of sixteen and eigh-
13 teen] FOURTEEN OR FIFTEEN YEARS OLD may hunt big game pursuant to the
14 provisions of [title 9 of this article while the holder is accompanied
15 by a parent, guardian or person over the age of eighteen as required by]
16 section 11-0929 of this article[.], AND

17 (III) A HOLDER WHO IS TWELVE OR THIRTEEN YEARS OLD MAY HUNT WILDLIFE,
18 EXCEPT BIG GAME, PURSUANT TO THE PROVISIONS OF SECTION 11-0929 OF THIS
19 ARTICLE. SUCH HOLDER IS ENTITLED TO POSSESS FIREARMS AS PROVIDED IN
20 SECTION 265.05 OF THE PENAL LAW, AND

21 (IV) A HOLDER MAY TRAP BEAVER, OTTER, FISHER, MINK, MUSKRAT, SKUNK,
22 RACCOON, BOBCAT, COYOTE, FOX, OPOSSUM, WEASEL, PINE MARTEN AND UNPRO-
23 TECTED WILDLIFE EXCEPT BIRDS, AS PROVIDED IN TITLE 11 OF THIS ARTICLE,
24 SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH 2 OF PARAGRAPH B OF SUBDIVI-
25 SION 3 OF SECTION 11-0713 OF THIS ARTICLE; THIS SHALL BE A TRAPPING
26 PRIVILEGE AND IT SHALL BE LISTED SEPARATELY ON A HUNTING LICENSE.

27 A holder may take fish with a [gun or] longbow as provided in titles 9
28 and 13 of this article.

29 B. A HUNTING LICENSE WITH ONLY A TRAPPING PRIVILEGE MAY ENTITLE A
30 HOLDER WHO IS LESS THAN TWELVE YEARS OLD TO TRAP BEAVER, OTTER, FISHER,
31 MINK, MUSKRAT, SKUNK, RACCOON, BOBCAT, COYOTE, FOX, OPOSSUM, WEASEL,
32 PINE MARTEN AND UNPROTECTED WILDLIFE EXCEPT BIRDS, AS PROVIDED IN TITLE
33 11 OF THIS ARTICLE, SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH TWO OF
34 PARAGRAPH B OF SUBDIVISION 3 OF SECTION 11-0713 OF THIS ARTICLE.

35 [(2) A non-resident big game license entitles a person who has not
36 been a resident of the state for more than thirty days to hunt wild deer
37 as provided in title 9. It entitles such person to hunt bear during the
38 regular open bear season or in an open season fixed by regulation pursu-
39 ant to subdivision eight of section 11-0903 of this article if such
40 person is also the holder of a non-resident bear tag. It entitles a
41 person who is between the ages of sixteen and eighteen years to exercise
42 the privileges of a big game license subject to the provisions of
43 section 11-0929.

44 b.] C. A special antlerless deer license is applicable to the hunting
45 of wild antlerless deer in a special open season fixed pursuant to
46 subdivision 6 of section 11-0903 of this article in a tract within a
47 Wilderness Hunting Area and entitles the holder of a license which
48 authorizes the holder to hunt big game to hunt antlerless deer in such
49 special open season, as provided in title 9 of this article if he OR SHE
50 has on his OR HER person while so hunting both his OR HER license which
51 authorizes the holder to hunt big game and his OR HER special antlerless
52 deer license.

53 [c. A junior archery license entitles a resident holder who is between
54 the ages of twelve and sixteen years to hunt wild deer and bear with a
55 longbow during the special archery season and during the regular season,
56 as provided in title 9 of this article, as if such person held a license

1 which authorizes the holder to hunt big game with a bowhunting stamp
2 affixed, subject to the provisions of section 11-0929 and subdivision 3
3 of section 11-0713 of this article. It entitles a non-resident holder
4 who is between the ages of twelve and sixteen years to hunt wild deer
5 and bear with a longbow during the special archery season and during the
6 regular season, as provided in title 9 of this article, as if such
7 person held a non-resident bowhunting license, a non-resident license
8 which authorizes the holder to hunt deer and a non-resident bear tag,
9 subject to the provisions of section 11-0929 and subdivision 3 of
10 section 11-0713 of this article.]

11 FOR PURPOSES OF THIS TITLE, A NON-RESIDENT IS A PERSON WHO HAS NOT
12 BEEN A RESIDENT OF THE STATE FOR MORE THAN THIRTY DAYS.

13 [3] 2. A bowhunting [stamp when affixed to] PRIVILEGE INCLUDED ON a
14 [resident] HUNTING license [which authorizes the holder to hunt big
15 game] entitles a holder who is eighteen years of age or older to hunt
16 wild deer and bear with a longbow, as provided in title 9 of this arti-
17 cle, in a special longbow season, SUBJECT TO THE PROVISIONS OF SUBDIVI-
18 SION 3 OF SECTION 11-0713 OF THIS ARTICLE and it entitles a holder who
19 is [sixteen or] TWELVE THROUGH seventeen years of age to exercise the
20 same privileges subject to the provisions of section 11-0929 and subdi-
21 vision 3 of section 11-0713 of this article.

22 [9-a] 5. A one-day fishing license entitles the [resident or non-re-
23 sident] holder to exercise the privileges of a fishing license on the
24 day specified on the license.

25 [11] 6. A muzzle-loading [stamp] PRIVILEGE when [affixed to] INCLUDED
26 ON a [resident] HUNTING license [which authorizes the holder to hunt big
27 game] entitles a holder who is fourteen years of age or older to hunt
28 wild deer and bear with a muzzle-loading firearm, as provided in title 9
29 of this article, in a special muzzle-loading firearm season, SUBJECT TO
30 THE PROVISIONS OF SUBDIVISION 3 OF SECTION 11-0713 OF THIS ARTICLE.

31 S 3. Subdivisions 2, 4, 5 and 6 of section 11-0703 of the environ-
32 mental conservation law, subdivision 2 as amended by chapter 507 of the
33 laws of 2010, subdivision 4 as amended by section 21 and paragraph a of
34 subdivision 5 as amended by section 22 of part F of chapter 82 of the
35 laws of 2002, paragraph b of subdivision 4 as amended by chapter 178 of
36 the laws of 2011, paragraphs d and e of subdivision 4 and subdivision 6
37 as amended by chapter 344 of the laws of 2008, subdivision 5 as amended
38 by chapter 450 of the laws of 1991 and paragraph d of subdivision 5 as
39 relettered by chapter 470 of the laws of 1994, are amended to read as
40 follows:

41 2. Except as provided in section 11-0704 of this title, no license,
42 permit, tag or [stamp] PRIVILEGE is transferable. No person shall alter,
43 change, lend to another or attempt to transfer to another any license or
44 any [button,] permit, tag or [stamp] PRIVILEGE issued therewith. No
45 person, while hunting, shall possess a license, [button,] permit, tag or
46 [stamp] PRIVILEGE which was issued to another person unless actually
47 accompanied by the person to whom such license, [button,] permit, tag or
48 [stamp] PRIVILEGE was issued. No person shall purchase, possess or use
49 more than one [junior archery, junior hunting, small and big game, big
50 game, bowhunting, muzzle-loading, sportsman, or resident super-sportsman
51 license or stamp, non-resident bowhunting or muzzle-loading license,
52 non-resident super-sportsman license, non-resident bear tag] HUNTING
53 LICENSE or special permit for the current license year, except as
54 permitted by regulation of the department. Notwithstanding the prohibi-
55 tions contained in this subdivision, the department may authorize by
56 rule or regulation the transfer of deer management permits, issued

1 pursuant to section 11-0913 of this article, to any person licensed to
2 hunt deer pursuant to this title.

3 4. a. [Non-resident fishing, non-resident super-sportsman, non-resi-
4 dent bowhunting or muzzle-loading, or non-resident trapping licenses, or
5 non-resident bear tags are issuable only to non-residents and persons
6 who have been residents for less than thirty days immediately preceding
7 the date of application.

8 b. A person under the age of fourteen years is ineligible for any
9 license, other than a junior archery license, which authorizes the hold-
10 er to hunt big game. A person under the age of sixteen years is ineligi-
11 ble for a small and big game, sportsman or resident super-sportsman,
12 non-resident super-sportsman, non-resident big game, non-resident
13 bowhunting license, or bowhunting stamp.] A person is ineligible for a
14 [small game, small and big game, junior hunting, big game, junior arch-
15 ery, sportsman and resident super-sportsman, non-resident super-sports-
16 man, or non-resident] HUNTING LICENSE, bowhunting PRIVILEGE or muzzle-
17 loading [license] PRIVILEGE unless such person meets the requirements of
18 subdivision 3 of section 11-0713 of this title.

19 [c] B. Only the following persons are eligible for resident
20 [licenses] FEES: (1) persons who have been residents in the state for
21 [more than] thirty days immediately [preceding] PRIOR TO the date of
22 application for the licenses, or who are enrolled [in] AS a full-time
23 [course] STUDENT at a college or university within the state and who are
24 in residence in the state for the school year, or who are out of state
25 or foreign exchange high school students enrolled [in] AS a full-time
26 [course] STUDENT in a high school within the state and who are in resi-
27 dence in the state for the school year; (2) Indian residents or members
28 of the six nations residing on any reservation wholly or partly within
29 the state; (3) members of the United States armed forces in active
30 service, stationed in this state, regardless of the place of residence
31 at the time of entry into the service; and (4) persons privileged under
32 subdivision 5 of section 11-0707 of this article to take wildlife, other
33 than deer and bear, as if they held hunting licenses.

34 [d] C. Only persons who possess a [small and big game] HUNTING
35 license[, the big game license portion of the free sportsman, a sports-
36 man license or resident super-sportsman license] are eligible for a
37 bowhunting PRIVILEGE or muzzle-loading [stamp, except that the holder of
38 a junior hunting license, who is a resident and who is at least fourteen
39 years old, is eligible for a muzzle-loading stamp] PRIVILEGE.

40 [e] D. A person under the age of twelve years is ineligible for a
41 [junior] hunting license EXCEPT AS PROVIDED IN PARAGRAPH B OF SUBDIVI-
42 SION 1 OF SECTION 11-0701 OF THIS ARTICLE.

43 5. a. One-day and seven-day fishing licenses expire on the date stated
44 on them. A FISHING LICENSE SHALL REMAIN EFFECTIVE ONE YEAR FROM THE DATE
45 ON WHICH IT WAS ISSUED.

46 b. A fishing license issued without charge to a resident as formerly
47 provided in subdivision 2 of section 11-0715, shall remain effective for
48 the life of the licensee.

49 c. A special antlerless deer license is effective during the special
50 open season for which it is issued.

51 d. All other licenses and [stamps] PRIVILEGES defined in section
52 11-0701 are effective for a license year beginning [October] SEPTEMBER 1
53 and ending [September 30] AUGUST 31.

54 6. a. Except as provided in section 11-0707 and section 11-0709 of
55 this title, no person shall (1) hunt wildlife[, other than deer or bear,
56 or take fish with a gun,] unless such person holds and is entitled to

1 exercise the privileges of a [small game, junior hunting, small and big
2 game, free sportsman, sportsman or resident super-sportsman, or non-re-
3 sident super-sportsman] HUNTING license; (2) hunt antlerless deer in a
4 special open season therefor pursuant to subdivision 6 of section
5 11-0903 of this article unless such person holds and is entitled to
6 exercise the privileges of and has on his or her person while so hunting
7 a [small and big game, big game, junior archery, free sportsman, junior]
8 hunting [if the licensee is at least fourteen years old, sportsman,
9 resident super-sportsman, non-resident super-sportsman or non-resident]
10 LICENSE, bowhunting PRIVILEGE or muzzle-loading [license] PRIVILEGE, and
11 a special antlerless deer license; (3) take fish or frogs in the manner
12 described in subdivision 4 of section 11-0701 of this title unless such
13 person is entitled to exercise the privileges of a fishing license; (4)
14 trap wildlife unless such person holds a [trapping] HUNTING license WITH
15 A TRAPPING PRIVILEGE.

16 b. Except as provided in section 11-0707 and section 11-0709 of this
17 title, no [resident] PERSON shall (1) hunt wild deer or bear unless such
18 person holds and is entitled to exercise the privileges of a [small and
19 big game, junior archery, junior hunting if the licensee is at least
20 fourteen years old, free sportsman, sportsman, or resident super-sports-
21 man] HUNTING license, and meets the requirements of this article; (2)
22 hunt wild deer or bear with a longbow in a special longbow season unless
23 such person holds and is entitled to exercise the privileges of a [small
24 and big game, junior archery, free sportsman, sportsman, or resident
25 super-sportsman] HUNTING license with a bowhunting [stamp affixed] PRIV-
26 ILEGE and meets the requirements of this article; or (3) hunt wild deer
27 or bear with a muzzle-loading firearm in a special muzzle-loading
28 firearm season unless such person IS AT LEAST FOURTEEN YEARS OLD AND
29 holds a [small and big game, free sportsman, sportsman, junior hunting
30 if the licensee is at least fourteen years old, or resident super-
31 sportsman] HUNTING license with a muzzle-loading [stamp affixed] PRIVI-
32 LEGE and meets the requirements of this article.

33 [c. Except as provided in section 11-0707 and section 11-0709 of this
34 title, no non-resident shall (1) hunt wild deer unless such person holds
35 and is entitled to exercise the privileges of a big game, junior arch-
36 ery, junior hunting if the licensee is at least fourteen years old,
37 non-resident super-sportsman, or non-resident bowhunting or muzzle-load-
38 ing license; (2) hunt wild deer with a longbow in a special longbow
39 season unless such person holds and is entitled to exercise the privi-
40 leges of a non-resident super-sportsman, non-resident bowhunting, or
41 junior archery license; (3) hunt wild deer with a muzzle-loading firearm
42 in a special muzzle-loading firearm season unless such person holds a
43 non-resident super-sportsman or non-resident muzzle-loading license; (4)
44 hunt wild bear unless such person holds a junior hunting license if the
45 licensee is at least fourteen years old, a junior archery license, or a
46 non-resident bear tag in combination with one of the non-resident deer
47 licenses listed in subparagraph 1, 2 or 3 of this paragraph.]

48 S 4. Subdivision 2, paragraphs b and c of subdivision 3 and paragraph
49 b of subdivision 4 of section 11-0713 of the environmental conservation
50 law, subdivision 2 as amended by chapter 25 of the laws of 2011, para-
51 graph b of subdivision 3 as amended by section 27 and paragraph b of
52 subdivision 4 as amended by section 28 of part F of chapter 82 of the
53 laws of 2002 and paragraph c of subdivision 3 as amended by chapter 344
54 of the laws of 2008, are amended to read as follows:

55 2. The issuing officer shall not issue a [junior archery license to a
56 person between the ages of twelve and sixteen or a junior] hunting

1 license to a person [between the ages of] AGE twelve [and] THROUGH
2 sixteen years unless, at the time of issuance, THE applicant is accompa-
3 nied by his or her parent or legal guardian who shall consent to the
4 issuance of the license and shall so signify by signing his or her name
5 in ink across the face of it. At no time shall such licenses be issued
6 by mail to persons [between the ages of] AGE twelve [and] THROUGH
7 sixteen years.

8 b. (1) The issuing officer shall not issue a HUNTING license [or stamp
9 which authorizes the holder to exercise the] WITH A BOW HUNTING privi-
10 lege [of hunting big game with a longbow] to any person unless the
11 applicant presents a New York state license [or stamp] which authorizes
12 the holder to exercise the privilege of hunting [big game] with a long-
13 bow issued in 1980 or later, an affidavit as provided in subparagraph 2
14 of paragraph a of this subdivision or a certificate of qualification in
15 responsible bowhunting practices issued or honored by the department.

16 (2) The issuing officer shall not issue a HUNTING LICENSE WITH A trap-
17 ping [license] PRIVILEGE to any person unless the applicant presents a
18 trapping license OR HUNTING LICENSE WITH A TRAPPING PRIVILEGE issued to
19 him OR HER previously, an affidavit as provided in subparagraph 2 of
20 paragraph a of this subdivision or a certificate of qualification in
21 responsible trapping practices.

22 c. The issuing officer shall not issue a [bowhunting stamp or]
23 muzzle-loading [stamp] PRIVILEGE to any [resident] PERSON unless the
24 applicant IS AT LEAST FOURTEEN YEARS OLD AND presents a [junior] hunting
25 license [if the licensee is at least fourteen years old, or a small and
26 big game, free sportsman, or sportsman or resident super-sportsman
27 license] issued to that person for the corresponding license year.

28 b. A person who has lost or accidentally destroyed a [button or] tag
29 issued with such a license or [stamp] PRIVILEGE may apply to any license
30 issuing officer for a duplicate and the department shall issue a dupli-
31 cate [button or] tag when satisfied that the application is made in good
32 faith. A duplicate free [sportsman] LICENSE, PRIVILEGE OR tag shall be
33 issued free of charge.

34 S 5. Subdivisions 2, 3, 4 and 6 of section 11-0715 of the environ-
35 mental conservation law, subdivision 2 as amended by section 3, subdivi-
36 sion 3 as amended by section 4 and subdivision 4 as amended by section 5
37 of part KK of chapter 59 of the laws of 2009, subdivision 6 as added by
38 section 32 of part F of chapter 82 of the laws of 2002 and paragraph a
39 of subdivision 6 as amended by chapter 344 of the laws of 2008, are
40 amended to read as follows:

41 2. A member of the Shinnecock tribe or the Poospatuck tribe or a
42 member of the six nations, residing on any reservation wholly or partly
43 within the state, is entitled to receive free of charge a fishing
44 license, a [small and big game license, a sportsman] HUNTING license, a
45 muzzle-loading [stamp] PRIVILEGE, [a trapping license,] and a bow hunt-
46 ing [stamp] PRIVILEGE; a resident of the state who is a member of the
47 United States armed forces in active service who is not stationed within
48 the state and has not been herein longer than thirty days on leave or
49 furlough, is entitled to receive free of charge a fishing license[,] AND
50 a [small and big game] HUNTING license[, and a trapping license]; a
51 resident of the state who is an active member of the organized militia
52 of the state of New York as defined by section one of the military law,
53 or the reserve components of the armed forces of the United States, and
54 excluding members of the inactive national guard and individual ready
55 reserve, is entitled to receive free of charge a fishing license[,] AND
56 a [small and big game] HUNTING license[, and a trapping license]; and a

1 resident who is blind is entitled to receive a fishing license free of
 2 charge. For the purposes of this subdivision a person is blind only if
 3 either: (a) his or her central visual acuity does not exceed 20/200 in
 4 the better eye with correcting lenses, or (b) his or her visual acuity
 5 is greater than 20/200 but is accompanied by a limitation of the field
 6 of vision such that the widest diameter of the visual field subtends an
 7 angle no greater than 20 degrees.

8 [A resident in the state for a period of thirty days immediately prior
 9 to the date of application who has attained the age of seventy is enti-
 10 tled to receive a sportsman license at the cost of ten dollars as a
 11 license fee.]

12 A resident in the state for a period of thirty days immediately prior
 13 to the date of application who has attained the age of seventy is enti-
 14 tled to receive a fishing license, and a [trapping] HUNTING license, at
 15 a cost of five dollars for each license.

16 A resident in the state for a period of thirty days immediately prior
 17 to the date of application who has attained the age of seventy is enti-
 18 tled to receive free of charge a bowhunting [stamp] PRIVILEGE and a
 19 muzzle-loading [stamp] PRIVILEGE.

20 3. Each applicant for a license, permit or [stamp] PRIVILEGE shall pay
 21 to the issuing officer a fee, according to the license, permit or
 22 [stamp] PRIVILEGE issued and the residence or other qualification of the
 23 applicant.

24 a. In the case of persons who have been residents of the state for
 25 [more than] A PERIOD OF thirty days immediately [preceding] PRIOR TO the
 26 date of application or who are enrolled [in] AS a full-time [course]
 27 STUDENT at a college or university within the state and who are in resi-
 28 dence in the state for the school year, OR WHO ARE OUT OF STATE OR
 29 FOREIGN EXCHANGE HIGH SCHOOL STUDENTS ENROLLED AS A FULL-TIME STUDENT IN
 30 A HIGH SCHOOL WITHIN THE STATE AND WHO ARE IN RESIDENCE IN THE STATE FOR
 31 THE SCHOOL YEAR, Indians residing off reservations in the state and
 32 members of the United States armed forces in active service stationed in
 33 this state regardless of place of residence at the time of entry into
 34 service:

License	Fee
(1) [Super-sportsman	\$88.00
(2) Trapper Super-sportsman	\$88.00
(3) Sportsman	\$47.00
(4) Small and big game	\$29.00]
(A) HUNTING	\$22.00
(B) HUNTING AGES FIFTEEN AND UNDER	\$ 5.00
[(5)] (2) Fishing	[\$29.00]25.00
[(6) Trapping	\$21.00
(7) Small game	\$26.00
(8) Junior trapping	\$ 6.00
(9)] (3) Muzzle-loading [stamp]	
PRIVILEGE	[\$21.00]11.00
[(10)] (4) (A) Bowhunting [stamp]	
PRIVILEGE	[\$21.00]20.00
(B) BOWHUNTING PRIVILEGE AGES	
TWELVE THROUGH FIFTEEN	\$ 4.00
[(11)] (5) Turkey permit	\$10.00
[(12)] (6) Seven-day fishing	\$15.00
[(13) Conservation legacy	\$96.00
[(14)] (7) One-day fishing	\$ 5.00

b. In the case of a non-resident and persons resident in the state for less than thirty days, other than persons who are enrolled [in] AS a full-time [course] STUDENT at a college or university within the state and who are in residence in the state for the school year and those members of the United States armed forces as to whom fees are specified in paragraph a of this subdivision:

License	Fee
(1) [Big game] (A) HUNTING	[\$140.00] \$100.00
(B) HUNTING AGES FIFTEEN AND UNDER	\$ 5.00
[(2) Small game	\$ 85.00
(3)] (2) Fishing	\$ [70.00] 50.00
[(4)] (3) Seven-day fishing	\$ 35.00
[(5) Trapping	\$310.00
(6) Super-sportsman	\$280.00
(7)] (4) (A) Bowhunting	
PRIVILEGE	[\$140.00] 40.00
(B) BOWHUNTING PRIVILEGE AGES TWELVE	
THROUGH FIFTEEN	\$ 4.00
[(8)] (5) Muzzle-loading	
PRIVILEGE	[\$140.00] 30.00
[(9) Bear tag	\$ 50.00
(10)] (6) Turkey permit	[\$ 50.00] \$20.00
[(11)] (7) One-day fishing	[\$ 15.00] \$10.00

c. In all cases:

(1) Certificates in lieu of lost license or [stamp]	
PRIVILEGE or tag	\$ 5.00
(2) Duplicate for lost or destroyed permit[, button]	
or tag	\$10.00
[(3) Junior hunting license	\$ 5.00
(4) Junior archery license	\$ 9.00
(5) One-day fishing license	\$15.00
(6) Conservation patron license	\$12.00]

4. A person, resident in the state for at least thirty days immediately prior to the date of application, who has been honorably discharged from service in the armed forces of the United States and certified as having a forty percent or greater service-connected disability is entitled to receive all licenses, [stamps] PRIVILEGE, tags, [buttons,] and permits authorized by this title for which he or she is eligible, except turkey permits, renewable each year for a five dollar fee.

6. a. License issuing officers may retain 1.1 percent of the gross proceeds from the sale of [the following:

- (1) non-resident small game license
- (2) non-resident big game license
- (3) non-resident trapping license
- (4) bear tag
- (5) non-resident bowhunting license
- (6) non-resident muzzle-loading license
- (7) non-resident super-sportsman license
- (8) non-resident turkey permit
- (9)] all lifetime licenses listed in section 11-0702 of this title.

b. License issuing officers may retain 5.5 percent of the gross proceeds from sale of all other [license, stamps] LICENSES, certificates and permits, including any application fees associated with such licenses, [stamps,] certificates and permits.

S 6. Paragraphs c, d and e of subdivision 1 of section 11-0907 of the environmental conservation law, paragraph c as amended by section 38 and

1 paragraphs d and e as added by section 40 of part F of chapter 82 of the
2 laws of 2002, are amended to read as follows:

3 c. The limit for wild deer is one deer per person in a license year
4 except that (1) a person entitled to exercise the privileges of a
5 special antlerless deer license may take an antlerless deer while hunt-
6 ing pursuant to such license in addition to the limit of one deer in a
7 license year otherwise applicable, (2) a person who is a member of a
8 hunting group holding a deer management permit or permits issued pursu-
9 ant to section 11-0913 of this article may take additional deer while
10 hunting in accordance with the conditions of the permit or permits, (3)
11 the holder of a bowhunting [license or stamp] PRIVILEGE or a muzzle-
12 loading [license or stamp] PRIVILEGE may take up to two additional deer,
13 pursuant to regulations promulgated by the department, and (4) an eligi-
14 ble non-ambulatory person, pursuant to subdivision 2 of section 11-0931
15 of this article may take a deer of either sex in any wildlife management
16 unit area where deer management permits have been issued by the depart-
17 ment, while in possession of a valid license which authorizes the holder
18 to hunt big game. Nothing contained in this section shall be construed
19 to limit the power of the department to designate by regulation an area
20 or areas of the state consisting of a county or part of a county where
21 such season shall apply and whether the number of such special permits
22 shall be limited.

23 d. (1) A person who holds licenses or [stamps] PRIVILEGES authorizing
24 the holder to hunt deer during a special archery season and the regular
25 open season and who has taken a deer by longbow in a special archery
26 season and who has not taken a deer in a regular open season may, in
27 addition to the limit of one deer in a license year otherwise applica-
28 ble, take during the same license year additional deer as specified by
29 department regulation in a special archery season following the close of
30 the regular open deer season.

31 (2) A person who holds licenses or [stamps] PRIVILEGES authorizing the
32 holder to hunt deer during a special archery season and the regular open
33 season and who has taken a deer by longbow in the regular open season
34 for deer in Westchester or Suffolk counties may, in addition to the
35 limit of one deer in a license year otherwise applicable, take during
36 the same license year additional deer as specified by department regu-
37 lation during such Westchester or Suffolk county regular open deer
38 season.

39 e. A person who holds licenses or [stamps] PRIVILEGES authorizing the
40 holder to hunt deer during a special muzzle-loading season and the regu-
41 lar open season and who has taken a deer by muzzle-loading firearm in a
42 muzzle-loading season and who has not taken a deer in a regular open
43 season may, in addition to the limit of one deer in a license year
44 otherwise applicable, take during the same year additional deer as spec-
45 ified by department regulation in a special muzzle-loading season
46 following the close of the regular deer season.

47 S 7. Paragraph c of subdivision 1 of section 11-0907 of the environ-
48 mental conservation law, as amended by section 39 of part F of chapter
49 82 of the laws of 2002, is amended to read as follows:

50 c. The limit for wild deer and bear is one deer and one bear per
51 person in a license year except that (1) a person entitled to exercise
52 the privileges of a special antlerless deer license may take an antler-
53 less deer while hunting pursuant to such license in addition to the
54 limit of one deer in a license year otherwise applicable, (2) a person
55 who is a member of a hunting group holding a deer management permit or
56 permits issued pursuant to section 11-0913 of this article may take

1 additional deer while hunting in accordance with the conditions of the
2 permit or permits, (3) the holder of a bowhunting license or [stamp]
3 PRIVILEGE or a muzzle-loading license or [stamp] PRIVILEGE may take up
4 to two additional deer, pursuant to regulations promulgated by the
5 department, and (4) an eligible non-ambulatory person, pursuant to
6 subdivision 2 of section 11-0931 of this article may take a deer of
7 either sex in any wildlife management unit area where deer management
8 permits have been issued by the department, while in possession of a
9 valid license which authorizes the holder to hunt big game. Nothing
10 contained in this section shall be construed to limit the power of the
11 department to designate by regulation an area or areas of the state
12 consisting of a county or part of a county where such season shall apply
13 and whether the number of such special permits shall be limited.

14 S 8. Paragraph a of subdivision 3 of section 11-0907 of the environ-
15 mental conservation law, as amended by section 41 of part F of chapter
16 82 of the laws of 2002, is amended to read as follows:

17 a. In every area identified in column one of the table set forth in
18 subdivision 2 of this section, except Westchester and Suffolk Counties
19 in which a regular open season for taking deer by firearms is estab-
20 lished and effective, a special open season is established for taking
21 deer of either sex, by the use of a long bow only by holders of a [small
22 and big game, sportsman, or free sportsman] HUNTING license [to which]
23 WITH a valid bowhunting [stamp is affixed or to holders of a junior
24 archery, resident or non-resident super-sportsman, or non-resident
25 bowhunting license] PRIVILEGE.

26 S 9. Paragraph a of subdivision 3 of section 11-0907 of the environ-
27 mental conservation law, as amended by section 42 of part F of chapter
28 82 of the laws of 2002, is amended to read as follows:

29 a. In every area identified in column one of the table set forth in
30 subdivision 2 of this section, except Westchester and Suffolk Counties
31 in which a regular open season for taking deer by firearms is estab-
32 lished and effective, a special open season is established for taking
33 deer of either sex, and bear, by the use of a long bow only by holders
34 of a [small and big game, sportsman, or free sportsman] HUNTING license
35 [to which] WITH a valid bowhunting [stamp is affixed or to holders of a
36 junior archery, resident or non-resident super-sportsman, or non-resi-
37 dent bowhunting license] PRIVILEGE.

38 S 10. Paragraph a of subdivision 8 of section 11-0907 of the environ-
39 mental conservation law, as amended by section 45 of part F of chapter
40 82 of the laws of 2002, is amended to read as follows:

41 a. In every area identified in column one of the table set forth in
42 subdivision 2 of this section, except those areas restricted to special
43 seasons for taking deer by longbow only, special open seasons may be
44 established by regulation for taking deer and/or bear, by the use of
45 muzzle-loading firearms, of not less than .44 caliber shooting a single
46 projectile, by the holders of a [small and big game, sportsman or free
47 sportsman] HUNTING license [to which] WITH a valid muzzle-loading [stamp
48 is affixed or to holders of a resident or non-resident super-sportsman,
49 or non-resident muzzle-loading license] PRIVILEGE.

50 S 11. Subdivision 7 of section 11-0913 of the environmental conserva-
51 tion law, as amended by section 6 of part KK of chapter 59 of the laws
52 of 2009, is amended to read as follows:

53 7. The department shall charge and receive a fee of ten dollars for
54 the application and the processing of such permit or permits. Applicants
55 who are successful in the computerized selection shall receive the
56 permit or permits free of any additional charge. The application fee

1 shall be non-refundable. The department may waive the application fee
2 for holders of a lifetime sportsman license existing as of October
3 first, two thousand nine[, junior archery license, resident super-
4 sportsman license, or junior hunting license] AND HOLDERS OF A HUNTING
5 LICENSE LESS THAN SIXTEEN YEARS OF AGE.

6 S 12. Subdivisions 4 and 5 of section 11-0929 of the environmental
7 conservation law are REPEALED, and subdivisions 1 and 2, as amended by
8 chapter 344 of the laws of 2008, are amended to read as follows:

9 1. A licensee who is twelve or thirteen years of age shall not:

10 A. hunt wildlife with a gun or a longbow, OTHER THAN DEER OR BEAR WITH
11 A LONGBOW AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, unless he or
12 she is accompanied by his or her parent or legal guardian, or by a
13 person twenty-one years of age or older designated in writing by his or
14 her parent or legal guardian on a form prescribed by the department, who
15 holds a license which authorizes the holder to hunt wildlife[.];

16 B. HUNT DEER OR BEAR WITH A LONGBOW UNLESS:

17 (1) HE OR SHE IS ACCOMPANIED BY HIS OR HER PARENT OR LEGAL GUARDIAN,
18 OR BY A PERSON DESIGNATED IN WRITING BY HIS OR HER PARENT OR LEGAL GUAR-
19 DIAN ON A FORM PRESCRIBED BY THE DEPARTMENT WHO IS TWENTY-ONE YEARS OF
20 AGE OR OLDER, AND

21 (2) SUCH PARENT, GUARDIAN OR PERSON HAS HAD AT LEAST THREE YEARS OF
22 EXPERIENCE IN HUNTING DEER OR BEAR WITH A LONGBOW, AND

23 (3) SUCH PARENT, GUARDIAN OR PERSON HOLDS A HUNTING LICENSE, AND

24 (4) SUCH PARENT, GUARDIAN OR PERSON MAINTAINS PHYSICAL CONTROL OVER
25 THE MINOR HE OR SHE IS ACCOMPANYING AT ALL TIMES WHILE HUNTING. FOR THE
26 PURPOSES OF THIS PARAGRAPH "PHYSICAL CONTROL" SHALL MEAN THAT THE PHYS-
27 ICAL PROXIMITY OF THE MINOR TO THE PARENT, GUARDIAN OR PERSON IS SUCH
28 THAT THE PARENT, GUARDIAN OR PERSON IS REASONABLY ABLE TO ISSUE VERBAL
29 DIRECTIONS AND INSTRUCTIONS, MAINTAIN CONSTANT VISUAL CONTACT, AND
30 OTHERWISE PROVIDE GUIDANCE AND SUPERVISION TO THE MINOR.

31 2. A licensee who is fourteen or fifteen years of age shall not:

32 a. hunt wildlife with a gun or longbow, other than wild deer or bear
33 as provided in paragraph b OR C of this subdivision, unless he or she is
34 accompanied by his or her parent or legal guardian holding a license
35 which authorizes the holder to hunt wildlife, or by a person eighteen
36 years of age or older, designated in writing by his or her parent or
37 legal guardian, holding such license;

38 b. hunt wild deer or bear with a gun unless:

39 (1) he or she is accompanied by his or her parent or a legal guardian,
40 or a youth mentor who is twenty-one years of age or older designated in
41 writing by the parent or legal guardian of the licensee on a form
42 prescribed by the department; and

43 (2) such parent, guardian or youth mentor has had at least three years
44 of experience in hunting big game; and

45 (3) such parent, guardian or youth mentor holds a license which
46 authorizes the holder to hunt big game; and

47 (4) such parent, guardian or youth mentor maintains physical control
48 over the minor he or she is accompanying at all times while hunting; and

49 (5) such parent, guardian or youth mentor and the minor he or she is
50 accompanying remain at ground level at all times while hunting; and

51 (6) such parent, guardian or youth mentor and the minor he or she is
52 accompanying shall each display either a minimum total of two hundred
53 fifty square inches of solid fluorescent orange or patterned fluorescent
54 orange consisting of no less than fifty percent fluorescent orange mate-
55 rial worn above the waist and visible from all directions, or a hat or
56 cap with no less than fifty percent of the exterior consisting of solid

1 fluorescent orange material and visible from all directions. For
2 purposes of this paragraph, "physical control" shall mean that the phys-
3 ical proximity of the minor to the parent, guardian or youth mentor is
4 such that the parent, guardian or youth mentor is reasonably able to
5 issue verbal directions and instructions, maintain constant visual
6 contact, and otherwise provide guidance and supervision to the minor.

7 C. HUNT DEER OR BEAR WITH A LONGBOW UNLESS HE OR SHE IS ACCOMPANIED BY
8 HIS OR HER PARENT OR LEGAL GUARDIAN, OR BY A PERSON DESIGNATED IN WRIT-
9 ING BY HIS OR HER PARENT OR LEGAL GUARDIAN ON A FORM PRESCRIBED BY THE
10 DEPARTMENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND WHO HAS HAD AT
11 LEAST ONE YEAR OF EXPERIENCE IN HUNTING DEER OR BEAR BY LONGBOW, AND
12 SUCH ACCOMPANYING PARENT, GUARDIAN OR PERSON HOLDS A LICENSE WHICH
13 AUTHORIZES THE HOLDER TO HUNT BIG GAME DURING THE SPECIAL ARCHERY SEASON
14 AND THE REGULAR OPEN SEASON.

15 S 13. Subdivision 1 of section 13-0355 of the environmental conserva-
16 tion law, as amended by section 1 of part AA of chapter 60 of the laws
17 of 2011, is amended to read as follows:

18 1. Definitions of registrations; privileges. A recreational marine
19 fishing registration entitles the holder who is sixteen years of age or
20 older to take fish from the waters of the marine and coastal district
21 and to take migratory fish of the sea from all waters of the state,
22 except as provided in sections 13-0333 and 13-0335 of this title. A
23 recreational marine fishing registration is effective for [a registra-
24 tion year beginning January first and ending December thirty-first] ONE
25 YEAR FROM THE DATE IT WAS ISSUED.

26 S 14. Section 9 of part AA of chapter 60 of the laws of 2011, amending
27 the environmental conservation law relating to saltwater recreational
28 fishing registrations, is amended to read as follows:

29 S 9. This act shall take effect immediately [and shall expire and be
30 deemed repealed December 31, 2013].

31 S 15. Subdivisions 1 and 2 of section 11-0702 of the environmental
32 conservation law, subdivision 1 as amended by section 2 of part AA of
33 chapter 60 of the laws of 2011 and subdivision 2 as amended by section
34 18 of part F of chapter 82 of the laws of 2002, are amended to read as
35 follows:

36 1. There are hereby created the following lifetime hunting, fishing,
37 [trapping,] archery and muzzle-loading licenses and fees therefor
38 subject to the same privileges and obligations of a comparable short
39 term license:

Licenses	Fees
a. Lifetime [sportsman] HUNTING license, FISHING LICENSE and turkey permit. If purchased, for a child four years of age or younger	\$380.00
for a child age five through eleven years of age	\$535.00
for a person age twelve through sixty-nine years of age	\$765.00
for a person age seventy and over.	\$65.00

1	b. Lifetime [small and	
2	big game] HUNTING license.	\$535.00
3	c. Lifetime fishing	
4	license for a person age	
5	sixty-nine or younger.	\$460.00
6	d. Lifetime fishing license	
7	for a person age seventy	
8	and over.	\$ 65.00
9	e. [Lifetime trapping	
10	license.	\$395.00
11	f.] Lifetime archery	
12	[stamp] PRIVILEGE.	\$235.00
13	[g.] F. Lifetime muzzle-	
14	loading [stamp] PRIVILEGE.	\$235.00
15	[j.] G. For transfer to a person pursuant	
16	to section 11-0704 of this title	\$50.00

17 The holder of a lifetime [small and big game] HUNTING license or LIFE-
18 TIME fishing license may, at any time, convert such license to a life-
19 time [sportsman] license [and turkey permit] PURSUANT TO PARAGRAPH A OF
20 THIS SUBDIVISION for an additional fee equal to the [existing differen-
21 tial] DIFFERENCE BETWEEN THE CURRENT FEE FOR THE NEW LICENSE AND THE FEE
22 ORIGINALLY PAID FOR THE LICENSE.

23 2. Legal residency within the state of New York shall be a prerequi-
24 site for persons to obtain, or have obtained for them, any lifetime
25 licenses included within this section. Lifetime licenses so obtained
26 shall continue to be valid for use within the state by the person to
27 whom the lifetime license was issued, regardless of a change in residen-
28 cy of that lifetime license holder. Holders of lifetime licenses which
29 include lifetime [big game] HUNTING privileges who become non-residents
30 of the state may continue to obtain resident bowhunting and muzzle-load-
31 ing [stamps] PRIVILEGES, including lifetime archery and muzzle-loading
32 [stamps] PRIVILEGES. Holders of lifetime [licenses which include]
33 bowhunting and muzzle-loading privileges who become non-residents of the
34 state may continue to obtain resident [big game] HUNTING privileges,
35 including A lifetime [sportsman or small and big game licenses] LICENSE
36 WITH HUNTING PRIVILEGES. [An annual turkey permit will be granted at no
37 additional fee as an additional privilege of all existing lifetime
38 sportsman licenses.] Possession of lifetime licenses is nontransferable.

39 S 16. The department of environmental conservation shall no longer
40 issue new lifetime trapping licenses on or after April 1, 2013. Any
41 holder of a lifetime trapping license as of February 22, 2013 shall be
42 issued a lifetime hunting license or, if such holder also has a lifetime
43 hunting license, a refund based on the fee originally paid for the
44 license.

45 S 17. The section heading of section 11-0707 of the environmental
46 conservation law is amended to read as follows:
47 Exemptions from requirement of hunting[, big game,] AND fishing [and
48 trapping] licenses.

1 S 18. Subdivision 5 of section 11-1911 of the environmental conserva-
2 tion law, as amended by chapter 57 of the laws of 1993, is amended to
3 read as follows:

4 5. The holder of a fishing, [three] ONE-day or [five] SEVEN-day fish-
5 ing, [combination] OR A free [hunting-big game hunting-]fishing [or
6 combined resident hunting, fishing and big game license or combined
7 non-resident hunting, fishing, big game, bowhunting and muzzle-loading]
8 license, or a person entitled to exercise the privileges of such a
9 license, may, with the permission of the licensee, take fish by angling
10 from the licensed pond provided the holder complies with the provisions
11 of title 13 of the Fish and Wildlife Law, with respect to open seasons,
12 minimum size limits and daily and seasonal possession limits.

13 S 19. Subdivision 8 of section 71-0921 of the environmental conserva-
14 tion law, as amended by chapter 595 of the laws of 1984, is amended to
15 read as follows:

16 8. Making a false statement in applying for a license, [stamp] PRIVI-
17 LEGE or permit under the Fish and Wildlife Law, or for a certificate in
18 lieu of a lost license or [stamp] PRIVILEGE or a duplicate [big game]
19 HUNTING license tag under title 7 of article 11 of this chapter. Each
20 such misdemeanor shall be punishable by imprisonment for not more than
21 three months, or by a fine of not more than two hundred dollars, or by
22 both such imprisonment and fine. In addition, the department may imme-
23 diately revoke the license, [stamp] PRIVILEGE, permit or certificate for
24 which application was made for the remainder of its effective term.

25 S 20. This act shall take effect February 1, 2014; provided, however,
26 that the amendments to paragraph c of subdivision 1 of section 11-0907
27 of the environmental conservation law made by section six of this act
28 and the amendments to paragraph a of subdivision 3 of section 11-0907 of
29 the environmental conservation law made by section eight of this act
30 shall not affect the expiration of such paragraphs pursuant to section
31 13 of chapter 600 of the laws of 1993, as amended, when upon such date
32 sections seven and nine of this act shall take effect, provided further,
33 that the amendments to section 9 of part AA of chapter 60 of the laws of
34 2011 made by section fourteen of this act and section sixteen of this
35 act shall take effect immediately.

36 PART S

37 Section 1. Legislative findings. The legislature hereby finds and
38 determines:

39 1. In 2011 and 2012, three storms of enormous magnitude - Hurricane
40 Irene, Tropical Storm Lee and Superstorm Sandy - each battered New York,
41 causing billions of dollars of damage to roads, buildings and other
42 infrastructure. The three storms collectively resulted in millions of
43 residential, business and industrial customers of electric utilities
44 losing electricity for extended periods of time.

45 2. Each of these storms caused, among other things, a disruption in
46 the distribution and supply of motor fuels, and in the case of Super-
47 storm Sandy, motorists were unable to obtain routine supplies of fuel
48 for several weeks.

49 3. In addition, temporary fuel distribution disruptions associated
50 with the aftermath of a storm can result in emergency vehicles and
51 responders unable to adequately address ongoing public safety and health
52 emergencies, delay an appropriate response to infrastructure damages
53 caused by a storm, and otherwise disrupt commerce in the state due to
54 difficulty to obtain readily available motor fuels.

1 4. On November 15, 2012, in response to Superstorm Sandy, Governor
2 Andrew M. Cuomo announced the creation of the NYS Ready Commission and
3 tasked it with finding ways to ensure critical systems and services are
4 prepared for future natural disasters and other emergencies. As related
5 to this act, the Commission was tasked with addressing vulnerabilities
6 in the state's energy systems.

7 5. The NYS Ready Commission recommended, among other things, to
8 require that retail gasoline outlets located in strategic locations have
9 on-site back-up power capacity to ensure that such outlets can continue
10 fuel sales operations during a long-term electric outage. The purpose of
11 this act is to ensure that the state is better situated in the future to
12 address the temporary disruption of retail fuel supplies.

13 S 2. The agriculture and markets law is amended by adding a new
14 section 192-h to read as follows:

15 S 192-H. ALTERNATE GENERATED POWER SOURCE AT RETAIL GASOLINE OUTLETS.

16 1. DEFINITIONS. WHEN USED IN THIS SECTION:

17 (A) "ALTERNATE GENERATED POWER SOURCE" MEANS ELECTRIC GENERATING
18 EQUIPMENT THAT IS OF A CAPACITY THAT IS CAPABLE OF PROVIDING ADEQUATE
19 ELECTRICITY TO OPERATE ALL DISPENSERS, DISPENSING EQUIPMENT, LIFE SAFETY
20 SYSTEMS AND PAYMENT-ACCEPTANCE EQUIPMENT LOCATED AT A RETAIL OUTLET AND
21 WHICH CAN OPERATE INDEPENDENT OF THE LOCAL ELECTRIC UTILITY DISTRIBUTION
22 SYSTEM AND PROVIDE ELECTRICITY DURING A GENERAL POWER OUTAGE OR DECLARED
23 FUEL SUPPLY ENERGY EMERGENCY TO OPERATE THE SYSTEMS NAMED HEREIN.

24 (B) "CHAIN OF RETAIL OUTLETS" MEANS A NETWORK OF SUBSIDIARIES, AFFIL-
25 IATES OR OTHER RETAIL OUTLETS, UNDER DIRECT OR INDIRECT COMMON CONTROL,
26 WITH TEN OR MORE RETAIL OUTLETS LOCATED IN A SINGLE REGION; PROVIDED,
27 HOWEVER THAT THIS TERM DOES NOT INCLUDE ANY FRANCHISOR OF THE BRAND OF
28 MOTOR FUEL BEING SOLD AT SUCH OUTLET.

29 (C) "CONTROLLED ACCESS HIGHWAY" MEANS EVERY HIGHWAY, STREET, OR ROAD-
30 WAY IN RESPECT TO WHICH OWNERS OR OCCUPANTS OF ABUTTING LANDS AND OTHER
31 PERSONS HAVE NO LEGAL RIGHT OF ACCESS TO OR FROM THE SAME EXCEPT AT SUCH
32 POINTS ONLY AND IN SUCH MANNER AS MAY BE DETERMINED BY THE PUBLIC
33 AUTHORITY HAVING JURISDICTION OVER SUCH HIGHWAY, STREET, OR ROADWAY.

34 (D) "DIESEL MOTOR FUEL" MEANS ANY FUEL SOLD IN THIS STATE AND FOR USE
35 IN DIESEL ENGINES WHICH IS COMMERCIALY KNOWN OR OFFERED FOR SALE AS
36 DIESEL MOTOR FUEL.

37 (E) "DISPENSER" MEANS A DEVICE LOCATED AT A RETAIL OUTLET THAT IS USED
38 TO PUMP MOTOR FUEL FROM AN ABOVE GROUND OR UNDERGROUND STORAGE TANK INTO
39 A MOTOR VEHICLE.

40 (F) "EVACUATION ROUTE" MEANS THOSE ROADS DESIGNATED BY EACH COUNTY
41 THAT ARE TO BE USED BY MOTORISTS IN CASE OF A HURRICANE OR OTHER NATURAL
42 DISASTER.

43 (G) "GASOLINE" MEANS ANY FUEL SOLD IN THIS STATE FOR USE IN INTERNAL
44 COMBUSTION ENGINES WHICH IS COMMERCIALY KNOWN OR OFFERED FOR SALE AS
45 GASOLINE, WHETHER OR NOT BLENDED WITH ETHANOL OR OTHER CHEMICALS.

46 (H) "MOTOR FUEL" MEANS ANY PETROLEUM PRODUCT, INCLUDING ANY GASOLINE
47 OR DIESEL MOTOR FUEL, WHICH IS USED FOR THE PROPULSION OF MOTOR VEHI-
48 CLES.

49 (I) "REGION" MEANS EACH OF THE FOLLOWING REGIONS OF THE STATE:

50 (1) CAPITAL REGION: INCLUDES ALBANY, COLUMBIA, GREENE, RENSSELAER,
51 SARATOGA, SCHENECTADY, WARREN AND WASHINGTON COUNTIES.

52 (2) CENTRAL NEW YORK REGION: INCLUDES CAYUGA, CORTLAND, MADISON, ONON-
53 DAGA AND OSWEGO COUNTIES.

54 (3) FINGER LAKES REGION: INCLUDES GENESEE, LIVINGSTON, MONROE, ONTAR-
55 IO, ORLEANS, SENECA, WAYNE, WYOMING AND YATES COUNTIES.

56 (4) LONG ISLAND REGION: INCLUDES NASSAU AND SUFFOLK COUNTIES.

1 (5) MID-HUDSON REGION: INCLUDES DUTCHESS, ORANGE, PUTNAM, ROCKLAND,
2 SULLIVAN, ULSTER AND WESTCHESTER COUNTIES.

3 (6) MOHAWK VALLEY REGION: INCLUDES FULTON, HERKIMER, MONTGOMERY, ONEI-
4 DA, OTSEGO AND SCHOHARIE COUNTIES.

5 (7) NEW YORK CITY REGION: INCLUDES BRONX, KINGS, NEW YORK, QUEENS AND
6 RICHMOND COUNTIES.

7 (8) NORTH COUNTRY REGION: INCLUDES CLINTON, ESSEX, FRANKLIN, HAMILTON,
8 JEFFERSON, LEWIS AND ST. LAWRENCE COUNTIES.

9 (9) SOUTHERN TIER REGION: INCLUDES BROOME, CHEMUNG, CHENANGO, DELA-
10 WARE, SCHUYLER, STEUBEN, TIOGA AND TOMPKINS COUNTIES.

11 (10) WESTERN NEW YORK REGION: INCLUDES ALLEGANY, CATTARAUGUS, CHAUTAU-
12 QUA, ERIE AND NIAGARA COUNTIES.

13 (J) "RETAILER" SHALL MEAN ANY PERSON WHO OWNS, LEASES, OPERATES,
14 CONTROLS, OR SUPERVISES A RETAIL OUTLET THAT IS SUBJECT TO THE REQUIRE-
15 MENTS OF SUBDIVISION TWO OF THIS SECTION.

16 (K) "RETAIL OUTLET" MEANS A FACILITY, INCLUDING ALL LAND, IMPROVEMENTS
17 AND ASSOCIATED STRUCTURES AND EQUIPMENT, THAT DISPENSES MOTOR FUEL FOR
18 SALE TO THE GENERAL PUBLIC.

19 (L) "SUBSTANTIAL IMPROVEMENT" MEANS ANY REPAIR, RECONSTRUCTION, REHA-
20 BILITATION, ADDITION OR IMPROVEMENT OF A RETAIL OUTLET, THE COST OF
21 WHICH EQUALS OR EXCEEDS FIFTY PERCENT OF THE MARKET VALUE OF THE RETAIL
22 OUTLET BEFORE THE IMPROVEMENT OR REPAIR IS STARTED.

23 2. PREWIRING AND TRANSFER SWITCH. (A) EACH NEWLY CONSTRUCTED RETAIL
24 OUTLET AND EACH RETAIL OUTLET MODIFIED BY A SUBSTANTIAL IMPROVEMENT FOR
25 WHICH A BUILDING PERMIT IS ISSUED ON OR AFTER MARCH FIRST, TWO THOUSAND
26 FOURTEEN, SHALL BE PREWIRED WITH AN APPROPRIATE TRANSFER SWITCH FOR
27 USING AN ALTERNATE GENERATED POWER SOURCE CAPABLE OF PROVIDING ADEQUATE
28 ELECTRICITY TO OPERATE ALL DISPENSERS, DISPENSING EQUIPMENT, LIFE SAFETY
29 SYSTEMS, AND PAYMENT-ACCEPTANCE EQUIPMENT AT EACH SUCH RETAIL OUTLET.

30 (B) NO LATER THAN MARCH FIRST, TWO THOUSAND FOURTEEN: (I) EACH EXIST-
31 ING RETAIL OUTLET THAT IS LOCATED WITHIN ONE-HALF MILE BY ROAD MEASURE-
32 MENT, EXCLUSIVE OF THE EXIT ROAD, FROM AN EVACUATION ROUTE OR CONTROLLED
33 ACCESS HIGHWAY; OR (II) FIFTY PERCENT OF ALL EXISTING RETAIL OUTLETS
34 THAT ARE PART OF A CHAIN OF RETAIL OUTLETS EXCLUSIVE OF THOSE INCLUDED
35 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE PREWIRED WITH AN APPRO-
36 PRIATE TRANSFER SWITCH FOR USING AN ALTERNATE GENERATED POWER SOURCE
37 CAPABLE OF PROVIDING ADEQUATE ELECTRICITY TO OPERATE ALL DISPENSERS,
38 DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT-ACCEPTANCE EQUIP-
39 MENT AT SUCH RETAIL OUTLET; PROVIDED, HOWEVER, THAT EACH RETAIL OUTLET
40 THAT DOES NOT MEET THE CRITERIA IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
41 THAT IS PART OF A CHAIN OF RETAIL OUTLETS SHALL BE REQUIRED TO INSTALL
42 SUCH EQUIPMENT BY NO LATER THAN MARCH FIRST, TWO THOUSAND SIXTEEN; AND
43 FURTHER PROVIDED THAT THE REQUIREMENTS OF THIS PARAGRAPH ARE INAPPLICA-
44 BLE TO ANY RETAIL OUTLET THAT SOLD LESS THAN SEVENTY-FIVE THOUSAND
45 GALLONS PER MONTH ON AVERAGE OF MOTOR FUEL IN CALENDAR YEAR TWO THOUSAND
46 TWELVE.

47 (C) SUCH TRANSFER SWITCH AND ALL ASSOCIATED ELECTRICAL WIRING SHALL BE
48 INSTALLED, OPERATED, AND MAINTAINED IN COMPLIANCE WITH ALL APPLICABLE
49 PROVISIONS OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING
50 CODE OR ANY APPLICABLE LOCAL BUILDING CODE OR STANDARD. INSTALLATION OF
51 APPROPRIATE WIRING AND TRANSFER SWITCHES SHALL BE PERFORMED BY A
52 LICENSED ELECTRICAL CONTRACTOR.

53 (D) EACH RETAILER SHALL KEEP ON FILE AT THE RETAIL OUTLET A WRITTEN
54 STATEMENT IN A FORM APPROVED BY THE DEPARTMENT AND CONTAINING AN ATTES-
55 TATION BY A LICENSED ELECTRICIAN THAT THE WIRING AND TRANSFER SWITCH
56 WERE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S SPECIFICATIONS. IN

1 ADDITION, EACH SUCH RETAILER MUST KEEP ON FILE AT THE RETAIL OUTLET A
2 WRITTEN STATEMENT ATTESTING TO THE PERIODIC TESTING OF AND ENSURED OPER-
3 ATIONAL CAPACITY OF THE EQUIPMENT.

4 3. PLAN FOR ALTERNATE GENERATED POWER SOURCE. EACH RETAILER SHALL BY
5 MARCH FIRST, TWO THOUSAND FOURTEEN HAVE IN PLACE AT EACH APPLICABLE
6 RETAIL OUTLET A WRITTEN PLAN IN A FORM APPROVED BY THE DEPARTMENT TO
7 DEPLOY AND INSTALL WITHIN TWENTY-FOUR HOURS OF EITHER THE DECLARATION OF
8 AN ENERGY OR FUEL SUPPLY EMERGENCY ISSUED BY THE GOVERNOR, THE COUNTY
9 EXECUTIVE OR CHIEF ELECTED OFFICIAL OF A COUNTY OR THE MAYOR OF A CITY
10 WITH A POPULATION IN EXCESS OF ONE MILLION INHABITANTS OR THE LOSS OF
11 ELECTRIC POWER, WHICHEVER IS LATER, AN ALTERNATE GENERATED POWER SOURCE
12 CAPABLE OF PROVIDING ADEQUATE ELECTRICITY TO OPERATE ALL DISPENSERS,
13 DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT-ACCEPTANCE EQUIP-
14 MENT LOCATED AT SUCH RETAIL OUTLET; PROVIDED, HOWEVER, THAT, FOR EACH
15 RETAILER THAT IS PART OF A CHAIN OF RETAIL OUTLETS, SUCH WRITTEN PLAN
16 SHALL BE IN PLACE BY THE DATE OF INSTALLATION OF THE PREWIRING AND
17 TRANSFER SWITCH REQUIRED TO BE INSTALLED UNDER SUBDIVISION TWO OF THIS
18 SECTION; AND FURTHER PROVIDED THAT IN THE CASE OF A RETAILER THAT IS
19 PART OF A CHAIN OF RETAIL OUTLETS AND TO WHICH SUBPARAGRAPH (I) OF PARA-
20 GRAPH (B) OF SUBDIVISION TWO OF THIS SECTION DOES NOT APPLY, THE PLAN
21 SHALL PROVIDE FOR THE DEPLOYMENT AND INSTALLATION WITHIN FORTY-EIGHT
22 HOURS. SUCH PLAN SHALL INCLUDE, AMONG OTHER THINGS, EITHER A RECEIPT
23 SHOWING OWNERSHIP OF SUCH POWER SOURCE OR A CONTRACT WITH A SUPPLIER OF
24 SUCH POWER SOURCE STATING THAT SUCH POWER SOURCE WILL BE PROVIDED AND
25 INSTALLED WITHIN THE TWENTY-FOUR HOUR PERIOD.

26 4. INSPECTION; RECORDKEEPING; REPORTING. THE COMMISSIONER OR THE
27 COMMISSIONER'S DESIGNEE SHALL BE AUTHORIZED TO ENTER DURING REGULAR
28 BUSINESS HOURS UPON A RETAIL OUTLET SUBJECT TO THE REQUIREMENTS OF THIS
29 SECTION FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THE PROVISIONS OF
30 THIS SECTION AND ANY RULES OR REGULATIONS PROMULGATED HEREUNDER. ALL
31 DOCUMENTS REQUIRED PURSUANT TO SUBDIVISIONS TWO AND THREE OF THIS
32 SECTION SHALL BE MAINTAINED AT THE APPLICABLE RETAIL OUTLET AND MADE
33 AVAILABLE TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE UPON
34 REQUEST. IN ADDITION, EACH RETAILER OF A RETAIL OUTLET SHALL PROVIDE TO
35 THE DEPARTMENT BY MARCH FIRST, TWO THOUSAND FOURTEEN AND EVERY TWO YEARS
36 THEREAFTER WRITTEN DOCUMENTATION IN A FORM APPROVED BY THE DEPARTMENT
37 CERTIFYING THAT SUCH RETAIL OUTLET IS IN COMPLIANCE WITH THE REQUIRE-
38 MENTS OF SUBDIVISIONS TWO AND THREE OF THIS SECTION, AND ANY OTHER
39 REQUIREMENT SPECIFIED BY ANY RULES OR REGULATIONS PROMULGATED HEREUNDER;
40 PROVIDED, HOWEVER, THAT, FOR EACH RETAIL OUTLET THAT IS PART OF A CHAIN
41 OF RETAIL OUTLETS, SUCH WRITTEN NOTIFICATION SHALL BE PROVIDED TO THE
42 DEPARTMENT WITHIN TEN DAYS AFTER THE DATE OF INSTALLATION OF THE PREWIR-
43 ING AND TRANSFER SWITCH REQUIRED TO BE INSTALLED UNDER SUBDIVISION TWO
44 OF THIS SECTION AND EVERY TWO YEARS THEREAFTER.

45 5. EMERGENCY DEPLOYMENT. IN THE EVENT THAT A DECLARATION OF AN ENERGY
46 OR FUEL SUPPLY EMERGENCY ISSUED BY THE GOVERNOR, THE COUNTY EXECUTIVE OR
47 CHIEF ELECTED OFFICIAL OF A COUNTY OR THE MAYOR OF A CITY WITH A POPU-
48 LATION IN EXCESS OF ONE MILLION INHABITANTS, IS IN EFFECT AND A RETAIL
49 OUTLET SUBJECT TO THE REQUIREMENTS OF THIS SECTION IS WITHOUT ELECTRIC
50 POWER, EACH RETAILER SHALL DEPLOY AND INSTALL AN ALTERNATE GENERATED
51 POWER SOURCE TO PROVIDE ADEQUATE ELECTRICITY TO OPERATE ALL DISPENSERS,
52 DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS AND PAYMENT-ACCEPTANCE EQUIP-
53 MENT LOCATED AT EACH RETAIL OUTLET SUBJECT TO THE REQUIREMENTS OF THIS
54 SECTION WITHIN TWENTY-FOUR HOURS OF EITHER THE DECLARATION OF SUCH EMER-
55 GENCY OR THE LOSS OF ELECTRIC POWER, WHICHEVER IS LATER; PROVIDED THAT
56 IN THE CASE OF A RETAILER THAT IS PART OF A CHAIN OF RETAIL OUTLETS AND

1 TO WHICH SUBPARAGRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS
2 SECTION DOES NOT APPLY, THE DEPLOYMENT AND INSTALLATION SHALL OCCUR
3 WITHIN FORTY-EIGHT HOURS OF EITHER THE DECLARATION OF SUCH EMERGENCY OR
4 THE LOSS OF ELECTRIC POWER, WHICHEVER IS LATER. NOTWITHSTANDING THE
5 FOREGOING, SUCH RETAILER SHALL NOT BE IN VIOLATION OF THIS SUBDIVISION
6 IF HE OR SHE IS UNABLE TO DEPLOY, INSTALL OR OPERATE AN ALTERNATE GENER-
7 ATED POWER SOURCE BECAUSE OF UNCONTROLLABLE CIRCUMSTANCES, INCLUDING BUT
8 NOT LIMITED TO RESTRICTIONS IMPOSED BY PUBLIC SAFETY OFFICERS TO ADDRESS
9 AN EMERGENCY SITUATION OR THAT SUCH RETAIL STATION IS MADE UNSAFE OR
10 UNABLE TO OPERATE DUE TO ACTS OF GOD, FIRES, FLOODS, EXPLOSIONS OR THE
11 SAFETY OF PERSONNEL NEEDED TO OPERATE SUCH EQUIPMENT.

12 6. RULES AND REGULATIONS; NOTIFICATION OF APPLICABILITY. THE COMMIS-
13 SIONER SHALL HAVE THE AUTHORITY, WITH THE ASSISTANCE OF THE COMMISSIONER
14 OF TRANSPORTATION, THE COMMISSIONER OF HOMELAND SECURITY AND EMERGENCY
15 SERVICES AND THE SECRETARY OF STATE, TO PROMULGATE SUCH RULES AND REGU-
16 LATIONS AS THE COMMISSIONER SHALL DEEM NECESSARY TO EFFECTUATE THE
17 PURPOSES OF THIS SECTION. THE COMMISSIONER SHALL BY MAY FIRST, TWO THOU-
18 SAND THIRTEEN: (A) NOTIFY BY FIRST CLASS MAIL ALL EXISTING RETAIL
19 OUTLETS THAT APPEAR TO MEET THE CRITERIA SPECIFIED IN PARAGRAPH (B) OF
20 SUBDIVISION TWO OF THIS SECTION OF THE REQUIREMENTS OF THIS SECTION AND
21 INCLUDE WITH SUCH NOTIFICATION ANY OTHER INFORMATION DEEMED NECESSARY BY
22 THE COMMISSIONER, INCLUDING INFORMATION REGARDING APPLICABILITY CRITE-
23 RIA, COMPLIANCE MEASURES AND POTENTIAL GRANT ASSISTANCE; (B) PROVIDE A
24 LIST OF ALL SUCH RETAIL OUTLETS TO THE GOVERNOR, THE TEMPORARY PRESIDENT
25 OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY; AND (C) POST SUCH LIST ON
26 THE DEPARTMENT'S WEBSITE. ANY RETAILER OF A RETAIL OUTLET SPECIFIED ON
27 SUCH LIST SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION UNLESS HE
28 OR SHE PROVIDES WRITTEN DOCUMENTATION TO THE DEPARTMENT BY JULY FIRST,
29 TWO THOUSAND THIRTEEN PROVING THAT SUCH OUTLET DOES NOT QUALIFY PURSUANT
30 TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION. THE COMMISSIONER
31 SHALL UPDATE SUCH LIST EVERY FIVE YEARS THEREAFTER AND NOTIFY ALL NEW
32 RETAIL OUTLETS THAT BECOME SUBJECT TO THE REQUIREMENTS OF THIS SECTION;
33 PROVIDED, HOWEVER, THAT COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION
34 IS NOT CONDITIONED ON SUCH NOTIFICATION.

35 7. VIOLATIONS AND PENALTIES. ANY RETAILER WHO VIOLATES, DISOBEYS OR
36 DISREGARDS ANY PROVISION OF THIS SECTION, OR ANY RULE OR REGULATION
37 PROMULGATED HEREUNDER, SHALL BE LIABLE TO THE PEOPLE OF THE STATE FOR A
38 CIVIL PENALTY OF UP TO TWO THOUSAND DOLLARS PER DAY FOR EVERY SUCH
39 VIOLATION, TO BE ASSESSED BY THE COMMISSIONER, AFTER A HEARING OR OPPOR-
40 TUNITY TO BE HEARD UPON DUE NOTICE AND WITH THE RIGHT TO REPRESENTATION
41 BY COUNSEL. SUCH PENALTY MAY BE RECOVERED IN AN ACTION BROUGHT BY THE
42 ATTORNEY GENERAL AT THE REQUEST AND IN THE NAME OF THE COMMISSIONER IN
43 ANY COURT OF COMPETENT JURISDICTION. SUCH CIVIL PENALTY MAY BE RELEASED
44 OR COMPROMISED BY THE COMMISSIONER BEFORE THE MATTER HAS BEEN REFERRED
45 TO THE ATTORNEY GENERAL. ADDITIONALLY, AFTER SUCH HEARING AND A FINDING
46 THAT SUCH RETAILER HAS VIOLATED THE PROVISIONS OF THIS SECTION, OR OF
47 ANY RULE OR REGULATION PROMULGATED THEREUNDER, THE COMMISSIONER MAY
48 ISSUE AND CAUSE TO BE SERVED UPON SUCH PERSON AN ORDER ENJOINING SUCH
49 PERSON FROM VIOLATING SUCH PROVISIONS AND TAKING ALL NECESSARY ACTIONS
50 FOR SUCH PERSON TO COME INTO COMPLIANCE WITH SUCH PROVISIONS. ANY SUCH
51 ORDER OF THE COMMISSIONER MAY BE ENFORCED IN AN ACTION BROUGHT BY THE
52 ATTORNEY GENERAL AT THE REQUEST AND IN THE NAME OF THE COMMISSIONER IN
53 ANY COURT OF COMPETENT JURISDICTION.

54 8. THE PROVISIONS OF THIS SECTION SHALL SUPERSEDE ALL LOCAL LAWS OR
55 ORDINANCES RELATING TO THE INSTALLATION AND DEPLOYMENT OF AN ALTERNATE

1 GENERATED POWER SOURCE OR ANY RELATED ELECTRICAL OR OTHER EQUIPMENT AT
2 ANY RETAIL OUTLET.

3 9. THE PROVISIONS OF THIS SECTION SHALL BE CONTINGENT ON THE APPROVAL
4 OF FEDERAL MITIGATION FUNDS FOR THE PROGRAM ESTABLISHED UNDER SUBDIVI-
5 SION TWENTY OF SECTION EIGHTEEN HUNDRED FIFTY-FOUR OF THE PUBLIC AUTHOR-
6 ITIES LAW.

7 S 3. Section 1854 of the public authorities law is amended by adding a
8 new subdivision 20 to read as follows:

9 20. TO ADMINISTER A PROGRAM, USING FUNDS PROVIDED FOR SUCH PURPOSE, TO
10 PROVIDE A GRANT FOR COSTS REQUIRED TO: (A) PREWIRE AN EXISTING RETAIL
11 OUTLET WITH AN APPROPRIATE TRANSFER SWITCH FOR USING AN ALTERNATE GENER-
12 ATED POWER SOURCE CAPABLE OF PROVIDING ADEQUATE ELECTRICITY TO OPERATE
13 ALL DISPENSERS, DISPENSING EQUIPMENT, LIFE SAFETY SYSTEMS, AND PAYMENT-
14 ACCEPTANCE EQUIPMENT AT SUCH RETAIL OUTLET; AND/OR (B) PURCHASE SUCH
15 POWER SOURCE OF NO GREATER THAN TEN THOUSAND DOLLARS FOR EACH EXISTING
16 RETAIL OUTLET SUBJECT TO THE REQUIREMENTS OF SECTION ONE HUNDRED NINE-
17 TY-TWO-H OF THE AGRICULTURE AND MARKETS LAW BASED ON STANDARDS AND
18 GUIDELINES ESTABLISHED BY THE AUTHORITY. THE AUTHORITY MAY OFFER ANY
19 FUNDS PROVIDED FOR SUCH PURPOSE AND NOT EXPENDED TO EXISTING RETAIL
20 OUTLETS THAT ARE NOT REQUIRED TO COMPLY WITH THE REQUIREMENTS OF SECTION
21 ONE HUNDRED NINETY-TWO-H OF THE AGRICULTURE AND MARKETS LAW BUT THAT
22 AGREE TO COMPLY WITH THE REQUIREMENTS THEREIN AS A CONDITION OF RECEIPT
23 OF SUCH GRANT.

24 S 4. This act shall take effect immediately.

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

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