

S. 6357--A

A. 8557--A

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

January 21, 2014

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

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

AN ACT to amend the highway law and to amend chapter 329 of the laws of 1991, amending the state finance law and other laws relating to the establishment of the dedicated highway and bridge trust fund, in relation to the consolidated local street and highway improvement program (CHIPS), suburban highway improvement program (SHIPS), multi-modal and Marchiselli programs; and to repeal certain provisions of chapter 329 of the laws of 1991 relating thereto (Part A); to amend part F of chapter 56 of the laws of 2011 permitting authorized state entities to utilize the design-build method for infrastructure projects, in relation to allowing authorized local entities to utilize the design-build method for infrastructure projects, and in relation to the effectiveness thereof (Part B); to amend part U1 of chapter 62 of the laws of 2003 amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to permanently authorizing payment of department of motor vehicle costs from the dedicated highway and bridge trust fund; to amend the transportation law, in relation to disposition of revenues; to amend the highway law, in relation to disposition of fees charged in connection with outdoor advertising on highways; and to amend the state finance law, in relation to the dedication of revenues and the costs of rail and truck regulation (Part C); to amend chapter 58 of the laws of 2013, relating to the hours of operation of the department of motor vehicles and providing for the repeal of such provisions upon expiration thereof, in relation to the effectiveness thereof (Part D); to amend the vehi-

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

cle and traffic law and the state finance law, in relation to the authorization of the department of motor vehicles to provide the accident prevention course internet program; to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law, relating to establishing the accident prevention course internet technology pilot program, in relation to the effectiveness thereof; and to repeal certain provisions of the vehicle and traffic law relating thereto (Part E); to amend the vehicle and traffic law, in relation to complying with federal requirements relating to medical certifications of commercial driver's license holders (Part F); to amend the public authorities law, in relation to toll collection regulations; to amend the public officers law, in relation to electronic toll collection data; to amend the vehicle and traffic law, in relation to liability of vehicle owners for toll collection violations; to amend the penal law, in relation to theft of services; and to amend chapter 774 of the laws of 1950, relating to agreeing with the state of New Jersey with respect to rules and regulations governing traffic on vehicular crossings operated by the port of New York authority, in relation to tolls and other charges (Part G); to amend chapter 67 of the laws of 1992, amending the environmental conservation law relating to pesticide product registration timetables and fees, in relation to the effective date thereof; and to amend the environmental conservation law, in relation to pesticide registration fees and reporting (Part H); to amend the environmental conservation law, the penal law, the vehicle and traffic law and the general obligations law, in relation to authorizing crossbow hunting, landowner liability, printing contracts for hunting and fishing guides, issuance of distinctive "I love New York" plates, fees and general powers and duties of the department of environmental conservation; and to repeal subdivisions 11 and 16 of section 11-0901 of the environmental conservation law relating thereto (Part I); to amend the agriculture and markets law, in relation to granting, suspending or revoking licenses for food processing establishments (Part J); 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 K); to authorize and direct the New York state energy research and development authority to make a payment to the general fund of up to \$913,000 (Part L); to amend the agriculture and markets law and the public authorities law, in relation to requiring power transfer switches on gas stations located within one half mile from a strategic upstate highway (Part M); 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 N); to amend the business corporation law and the not-for-profit corporation law, in relation to the transmission of incorporation certificates to county clerks (Part O); to amend the executive law, in relation to the national registry fee (Part P); to authorize the department of health to finance certain activities with revenues generated from an assessment on cable television companies (Part Q); to amend the public service law, in relation to authorizing the department of public service to increase program efficiencies; and to repeal certain provisions of the public service law relating thereto (Part R); to amend the public service law, in relation to the tempo-

rary state energy and utility service conservation assessment (Part S); to amend the insurance law, in relation to unauthorized providers of health services and the examination of providers of health services (Part T); to amend the insurance law, the public health law and the financial services law, in relation to establishing protections to prevent surprise medical bills including network adequacy requirements, claim submission requirements, access to out-of-network care and prohibition of excessive emergency charges (Part U); to amend the insurance law, in relation to licensing title insurance agents, closers and solicitors; grants the superintendent of financial services the authority to require title insurance agents, closers, and solicitor applicants to submit to fingerprinting; and to repeal certain provisions of such law relating thereto (Part V); 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 W); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part X); to amend the public health law, in relation to fees in connection with certain health care facility financings; and to repeal section 2976-a of the public authorities law relating thereto (Part Y); to amend the New York state urban development corporation act, in relation to extending certain provisions relating to the empire state economic development fund (Part Z); and 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 AA)

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 2014-2015
 3 state fiscal year. Each component is wholly contained within a Part
 4 identified as Parts A through AA. 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. Subdivision (d) of section 11 of chapter 329 of the laws of
 14 1991 amending the state finance law and other laws relating to the
 15 establishment of the dedicated highway and bridge trust fund, as amended
 16 by section 4 of part A of chapter 58 of the laws of 2012, is amended to
 17 read as follows:

1 (d) Any such service contract (i) shall provide that the obligation of
2 the director of the budget or the state to fund or to pay the amounts
3 therein provided for shall not constitute a debt of the state within the
4 meaning of any constitutional or statutory provisions in the event the
5 thruway authority assigns or pledges service contract payments as secu-
6 rity for its bonds or notes, (ii) shall be deemed executory only to the
7 extent moneys are available and SHALL PROVIDE that no liability shall be
8 incurred by the state beyond the moneys available for the purpose, and
9 that such obligation is subject to annual appropriation by the legisla-
10 ture, and (iii) shall provide that no funds shall be made available from
11 the proceeds of bonds or notes issued pursuant to this chapter unless
12 the commissioner of transportation has certified to the [chairman of the
13 thruway authority] DIRECTOR OF THE BUDGET that such funds shall be used
14 exclusively for the purposes authorized by subdivision (a) of this
15 section, and/or construction, reconstruction or improvement of local
16 highways, bridges and/or highway-railroad crossings, including right of
17 way acquisition, preliminary engineering, and construction supervision
18 and inspection, where the service life of the project is at least ten
19 years or where the project is: (1) microsurfacing, (2) paver placed
20 surface treatment, (3) single course surface treatment involving chip
21 seals and oil and stone and (4) double course surface treatment involv-
22 ing chip seals and oil and stone, and unless [the director of the budget
23 has certified to the chairman of the thruway authority that] a spending
24 plan has been submitted by the commissioner of transportation and has
25 been approved by the director of the budget.

26 S 2. Subdivision (g) of section 15 of chapter 329 of the laws of 1991,
27 as added by section 9 of chapter 330 of the laws of 1991, is REPEALED,
28 and subdivision (f) of section 15 of chapter 329 of the laws of 1991,
29 amending the state finance law and other laws relating to the establish-
30 ment of the dedicated highway and bridge trust fund, as added by section
31 9 of chapter 330 of the laws of 1991, is amended to read as follows:

32 (f) The commissioner of transportation shall certify to the [New York
33 state thruway authority] DIRECTOR OF THE BUDGET AND THE COMPTROLLER
34 amounts eligible for repayments as specified herein. Such certification
35 shall include any such information as may be necessary to maintain the
36 federal tax exempt status of bonds, notes or other obligations issued by
37 the New York state thruway authority pursuant to section 380 of the
38 public authorities law.

39 S 3. Subdivision 1 of section 80-b of the highway law, as amended by
40 chapter 161 of the laws of 2008, is amended to read as follows:

41 1. In connection with the undertaking of any project for which the
42 commissioner is authorized to use moneys of the federal government
43 pursuant to the provisions of subdivision thirty-four-a of section ten
44 and section eighty of this chapter to assure the effective discharge of
45 state responsibilities with respect to regional transportation needs, on
46 highways, roads, streets, bicycle paths or pedestrian paths that are not
47 on the state highway system, the commissioner shall submit such project
48 to the governing body or bodies of the affected municipality or munici-
49 palities together with estimates of costs thereof. If such project
50 includes a municipal project, as that term is defined in accordance with
51 article thirteen of the transportation law, the state share of such
52 municipal project shall also be included. If such project includes a
53 project affecting a highway, road, street, bicycle path or pedestrian
54 path not on the state highway system, the state share shall be equal to
55 eighty percent of the difference between the total project cost and the
56 federal assistance, provided, however, the commissioner may increase the

1 state share to an amount equal to one hundred percent of the difference
2 between the total project cost and the federal assistance where he
3 determines that the need for the project results substantially from
4 actions undertaken pursuant to section ten of this chapter. [Except for
5 individual projects where the non-federal share of a federally aided
6 municipal project is less than five thousand dollars, no state or local
7 shares of municipal streets and highways projects shall be payable from
8 the non-fiduciary funds of the capital projects budget of the depart-
9 ment.] No such project shall proceed without the approval of the govern-
10 ing body of a municipality. Such governing body may request the commis-
11 sioner to undertake the provision of such project. If the commissioner
12 agrees to such undertaking he shall notify the local governing body
13 which shall appropriate sufficient moneys to pay the estimated amount of
14 the municipal share. Such moneys shall be deposited with the state comp-
15 troller who is authorized to receive and accept the same for the
16 purposes of such project, subject to the draft or requisition of the
17 commissioner. When the work of such project has been completed, the
18 commissioner shall render to the governing body of such municipality an
19 itemized statement showing in full (a) the amount of money that has been
20 deposited by such municipality with the state comptroller as hereinbe-
21 fore provided, and (b) all disbursements made pursuant to this section
22 for such project. Any surplus moneys shall be paid to such municipality
23 on the warrant of the comptroller on vouchers therefor approved by the
24 commissioner. When the work of such project has been completed and it is
25 determined by the commissioner that the amount of the cost to be borne
26 by the municipality is in excess of the amount deposited by such munici-
27 pality with the state comptroller, the commissioner shall then notify
28 the municipality of the deficiency of funds. The municipality shall then
29 within ninety days of the receipt of such notice, pay such amount to the
30 state comptroller. For purposes of this section, the term "municipality"
31 shall include a city, county, town, village or two or more of the fore-
32 going acting jointly.

33 S 4. Subdivision (e) of section 16 of chapter 329 of the laws of 1991,
34 amending the state finance law and other laws relating to the establish-
35 ment of a dedicated highway and bridge trust fund, as added by section 9
36 of chapter 330 of the laws of 1991, is REPEALED.

37 S 5. Subdivision (e) of section 16-a of chapter 329 of the laws of
38 1991, amending the state finance law and other laws relating to the
39 establishment of a dedicated highway and bridge trust fund, as added by
40 section 9 of chapter 330 of the laws of 1991, is REPEALED.

41 S 6. Paragraph (a) of subdivision 5 of section 10-f of the highway
42 law, as added by chapter 725 of the laws of 1993, is amended to read as
43 follows:

44 (a) Funding of municipal projects will be made upon the application
45 for funding of prior expenditures in a format prescribed by the commis-
46 sioner. [Funding of qualifying municipal project expenditures shall be
47 made from the proceeds of bonds, notes or other obligations issued
48 pursuant to section three hundred eighty of the public authorities law.]
49 Such funding of state projects may be pursuant to agreements between the
50 commissioner and the New York state thruway authority and may be from
51 the proceeds of bonds, notes or other obligations issued pursuant to
52 section three hundred eighty-five of the public authorities law.

53 S 7. Paragraph (a) of subdivision 5 of section 10-g of the highway
54 law, as added by chapter 725 of the laws of 1993, is amended to read as
55 follows:

1 (a) Funding of municipal projects will be made upon the application
2 for funding of prior expenditures in a format prescribed by the commis-
3 sioner. [Funding of qualifying municipal project expenditures shall be
4 made from the proceeds of bonds, notes or other obligations issued
5 pursuant to section three hundred eighty of the public authorities law.]
6 Such funding of state projects may be pursuant to agreements between the
7 commissioner and the New York state thruway authority and may be from
8 the proceeds of bonds, notes or other obligations issued pursuant to
9 section three hundred eighty-five of the public authorities law.
10 S 8. This act shall take effect immediately.

PART B

11
12 Section 1. Sections 3, 4, 5, 7, 8, 10, 11, 13, 14, 15, 16 and 17 of
13 part F of chapter 56 of the laws of 2011 permitting authorized state
14 entities to utilize the design-build method for infrastructure projects
15 are amended to read as follows:

16 S 3. For the purposes of this act:

17 (a) "authorized state entity" shall mean the New York state thruway
18 authority, the department of transportation, the office of parks, recre-
19 ation and historic preservation, the department of environmental conser-
20 vation and the New York state bridge authority.

21 (b) "best value" shall mean the basis for awarding contracts for
22 services to the offerer that optimize quality, cost and efficiency,
23 price and performance criteria, which may include, but is not limited
24 to:

- 25 1. The quality of the contractor's performance on previous projects;
- 26 2. The timeliness of the contractor's performance on previous
27 projects;
- 28 3. The level of customer satisfaction with the contractor's perform-
29 ance on previous projects;
- 30 4. The contractor's record of performing previous projects on budget
31 and ability to minimize cost overruns;
- 32 5. The contractor's ability to limit change orders;
- 33 6. The contractor's ability to prepare appropriate project plans;
- 34 7. The contractor's technical capacities;
- 35 8. The individual qualifications of the contractor's key personnel;
- 36 9. The contractor's ability to assess and manage risk and minimize
37 risk impact; and
- 38 10. The contractor's past record of compliance with article 15-A of
39 the executive law.

40 Such basis shall reflect, wherever possible, objective and quantifi-
41 able analysis.

42 (c) "capital project" shall have the same meaning as such term is
43 defined by subdivision 2-a of section 2 of the state finance law.

44 (d) "cost plus" shall mean compensating a contractor for the cost to
45 complete a contract by reimbursing actual costs for labor, equipment and
46 materials plus an additional amount for overhead and profit.

47 (e) "design-build contract" shall mean a contract for the design and
48 construction of a capital project with a single entity, which may be a
49 team comprised of separate entities.

50 (f) "procurement record" means documentation of the decisions made and
51 the approach taken in the procurement process.

52 (G) "AUTHORIZED LOCAL ENTITY" SHALL MEAN ANY CITY, TOWN OR VILLAGE
53 WITH A POPULATION OF MORE THAN FIFTY THOUSAND, OR ANY COUNTY.

1 S 4. Notwithstanding the provisions of section 38 of the highway law,
2 section 136-a of the state finance law, section 359 of the public
3 authorities law, section 7210 of the education law, SECTION 103 OF THE
4 GENERAL MUNICIPAL LAW, and the provisions of any other law to the
5 contrary, and in conformity with the requirements of this act, an
6 authorized state OR LOCAL entity may utilize the alternative delivery
7 method referred to as design-build contracts for capital projects
8 related to the state's OR LOCAL ENTITY'S physical infrastructure,
9 including, but not limited to, the state's OR LOCAL ENTITY'S highways,
10 bridges, dams, flood control projects, canals, and parks, including, but
11 not limited to, to repair damage caused by natural disaster, to correct
12 health and safety defects, to comply with federal and state laws, stand-
13 ards, and regulations, to extend the useful life of or replace the
14 state's OR LOCAL ENTITY'S highways, bridges, dams, flood control
15 projects, canals, and parks or to improve or add to the state's OR LOCAL
16 ENTITY'S highways, bridges, dams, flood control projects, canals, and
17 parks; provided that for the contracts executed by the department of
18 transportation, the office of parks, recreation and historic preserva-
19 tion, or the department of environmental conservation, OR BY ANY LOCAL
20 ENTITY, the total cost of each such project shall not be less than one
21 million two hundred thousand dollars (\$1,200,000); AND FURTHER PROVIDED
22 THAT AUTHORIZED LOCAL ENTITIES MAY UTILIZE THE ALTERNATIVE DELIVERY
23 METHOD REFERRED TO AS DESIGN-BUILD CONTRACTS ONLY FOR CAPITAL PROJECTS
24 THAT ARE NOT SUBJECT TO SECTION 101 OF THE GENERAL MUNICIPAL LAW.

25 S 5. An entity selected by an authorized state OR LOCAL entity to
26 enter into a design-build contract shall be selected through a two-step
27 method, as follows:

28 (a) Step one. Generation of a list of entities that have demonstrated
29 the general capability to perform the design-build contract. Such list
30 shall consist of a specified number of entities, as determined by an
31 authorized state OR LOCAL entity, and shall be generated based upon the
32 authorized state OR LOCAL entity's review of responses to a publicly
33 advertised request for qualifications. The authorized state OR LOCAL
34 entity's request for qualifications shall include a general description
35 of the project, the maximum number of entities to be included on the
36 list, and the selection criteria to be used in generating the list. Such
37 selection criteria shall include the qualifications and experience of
38 the design and construction team, organization, demonstrated responsi-
39 bility, ability of the team or of a member or members of the team to
40 comply with applicable requirements, including the provisions of arti-
41 cles 145, 147 and 148 of the education law, past record of compliance
42 with the labor law, and such other qualifications the authorized state
43 OR LOCAL entity deems appropriate which may include but are not limited
44 to project understanding, financial capability and record of past
45 performance. The authorized state OR LOCAL entity shall evaluate and
46 rate all entities responding to the request for qualifications. Based
47 upon such ratings, the authorized state OR LOCAL entity shall list the
48 entities that shall receive a request for proposals in accordance with
49 subdivision (b) of this section. To the extent consistent with applica-
50 ble federal law, the authorized state entity shall consider, when award-
51 ing any contract pursuant to this section, the participation of: (i)
52 firms certified pursuant to article 15-A of the executive law as minori-
53 ty or women-owned businesses and the ability of other businesses under
54 consideration to work with minority and women-owned businesses so as to
55 promote and assist participation by such businesses; and (ii) small

1 business concerns identified pursuant to subdivision (b) of section
2 139-g of the state finance law.

3 (b) Step two. Selection of the proposal which is the best value to the
4 state OR LOCAL ENTITY. The authorized state OR LOCAL entity shall issue
5 a request for proposals to the entities listed pursuant to subdivision
6 (a) of this section. If such an entity consists of a team of separate
7 entities, the entities that comprise such a team must remain unchanged
8 from the entity as listed pursuant to subdivision (a) of this section
9 unless otherwise approved by the authorized state OR LOCAL entity. The
10 request for proposals shall set forth the project's scope of work, and
11 other requirements, as determined by the authorized state OR LOCAL enti-
12 ty. The request for proposals shall specify the criteria to be used to
13 evaluate the responses and the relative weight of each such criteria.
14 Such criteria shall include the proposal's cost, the quality of the
15 proposal's solution, the qualifications and experience of the design-
16 build entity, and other factors deemed pertinent by the authorized state
17 OR LOCAL entity, which may include, but shall not be limited to, the
18 proposal's project implementation, ability to complete the work in a
19 timely and satisfactory manner, maintenance costs of the completed
20 project, maintenance of traffic approach, and community impact. Any
21 contract awarded pursuant to this act shall be awarded to a responsive
22 and responsible entity that submits the proposal, which, in consider-
23 ation of these and other specified criteria deemed pertinent to the
24 project, offers the best value to the state OR LOCAL ENTITY, as deter-
25 mined by the authorized state OR LOCAL entity. Nothing herein shall be
26 construed to prohibit the authorized entity from negotiating final
27 contract terms and conditions including cost.

28 S 7. Construction for each capital project undertaken by the author-
29 ized state OR LOCAL entity pursuant to this act shall be deemed a
30 "public work" to be performed in accordance with the provisions of arti-
31 cle 8 of the labor law, as well as subject to sections 200, 240, 241 and
32 242 of the labor law and enforcement of prevailing wage requirements by
33 the New York state department of labor.

34 S 8. If otherwise applicable, capital projects undertaken by the
35 authorized state OR LOCAL entity pursuant to this act shall be subject
36 to section 135 of the state finance law and section 222 of the labor
37 law.

38 S 10. Capital projects undertaken by the authorized state OR LOCAL
39 entity pursuant to this act shall be subject to the requirements of
40 article eight of the environmental conservation law, and, where applica-
41 ble, the requirements of the national environmental policy act.

42 S 11. If otherwise applicable, capital projects undertaken by the
43 authorized state entity pursuant to this act shall be governed by
44 sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph
45 g of subdivision 9 of section 163 of the state finance law, AND CAPITAL
46 PROJECTS UNDERTAKEN BY THE AUTHORIZED LOCAL ENTITY PURSUANT TO THIS ACT
47 SHALL BE GOVERNED BY SECTION 103-D OF THE GENERAL MUNICIPAL LAW.

48 S 13. Nothing contained in this act shall limit the right or obli-
49 gation of the authorized state OR LOCAL entity to comply with the
50 provisions of any existing contract, including any existing contract
51 with or for the benefit of the holders of the obligations of the author-
52 ized state OR LOCAL entity, or to award contracts as otherwise provided
53 by law.

54 S 14. Alternative construction awarding processes. (i) Notwithstand-
55 ing the provisions of any other law to the contrary, the authorized
56 state OR LOCAL entity may award a construction contract:

1 1. To the contractor offering the best value; or

2 2. Utilizing a cost-plus not to exceed guaranteed maximum price form
3 of contract in which the authorized state OR LOCAL entity shall be enti-
4 tled to monitor and audit all project costs. In establishing the sched-
5 ule and process for determining a guaranteed maximum price, the contract
6 between the authorized state OR LOCAL entity and the contractor shall:

7 (a) describe the scope of the work and the cost of performing such
8 work;

9 (b) include a detailed line item cost breakdown;

10 (c) include a list of all drawings, specifications and other informa-
11 tion on which the guaranteed maximum price is based;

12 (d) include the dates for substantial and final completion on which
13 the guaranteed maximum price is based; and

14 (e) include a schedule of unit prices; or

15 3. Utilizing a lump sum contract in which the contractor agrees to
16 accept a set dollar amount for a contract which comprises a single bid
17 without providing a cost breakdown for all costs such as for equipment,
18 labor, materials, as well as such contractor's profit for completing all
19 items of work comprising the project.

20 (ii) Capital projects undertaken by an authorized state OR LOCAL enti-
21 ty may include an incentive clause in the contract for various perform-
22 ance objectives, but the incentive clause shall not include an incentive
23 that exceeds the quantifiable value of the benefit received by the state
24 OR LOCAL ENTITY. The authorized state OR LOCAL entity shall establish
25 such performance and payment bonds as it deems necessary.

26 S 15. Prequalified contractors. (a) Notwithstanding any other
27 provision of law, the authorized state OR LOCAL entity may maintain a
28 list of prequalified contractors who are eligible to submit a proposal
29 pursuant to this act and entry into such list shall be continuously
30 available. Prospective contractors may be prequalified as contractors to
31 provide particular types of construction, in accordance with general
32 criteria established by the authorized state OR LOCAL entity which may
33 include, but shall not be limited to, the experience, past performance,
34 ability to undertake the type and complexity of work, financial capabil-
35 ity, responsibility, compliance with equal employment opportunity
36 requirements and anti-discrimination laws, and reliability. Such
37 prequalification may be by categories designed by size and other
38 factors.

39 (b) A contractor who is denied prequalification or whose prequalifica-
40 tion is revoked or suspended by the authorized state OR LOCAL entity may
41 appeal such decision to the authorized state entity. If such a suspen-
42 sion extends for more than three months, it shall be deemed a revocation
43 of the prequalification. The authorized state OR LOCAL entity may
44 proceed with the contract award during any appeal.

45 S 16. Nothing in this act shall affect existing powers of New York
46 state public entities OR LOCAL ENTITIES to use alternative project
47 delivery methods.

48 S 17. This act shall take effect immediately [and shall expire and be
49 deemed repealed 3 years after such date, provided that, projects with
50 requests for qualifications issued prior to such repeal shall be permit-
51 ted to continue under this act notwithstanding such repeal].

52 S 2. This act shall take effect immediately.

1 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003
2 amending the vehicle and traffic law and other laws relating to increas-
3 ing certain motor vehicle transaction fees, as amended by section 2 of
4 part B of chapter 58 of the laws of 2013, is amended to read as follows:

5 S 13. This act shall take effect immediately; provided however that
6 sections one through seven of this act, the amendments to subdivision 2
7 of section 205 of the tax law made by section eight of this act, and
8 section nine of this act shall expire and be deemed repealed on [March
9 31] APRIL 1, 2015; provided further, however, that the amendments to
10 subdivision 3 of section 205 of the tax law made by section eight of
11 this act shall expire and be deemed repealed on March 31, 2018; provided
12 further, however, that the provisions of section eleven of this act
13 shall take effect April 1, 2004 and shall expire and be deemed repealed
14 on [March 31] APRIL 1, 2015.

15 S 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
16 the state finance law relating to the costs of the department of motor
17 vehicles, as amended by section 1 of part E of chapter 59 of the laws of
18 2009, is amended to read as follows:

19 S 2. This act shall take effect April 1, 2002; provided, however, if
20 this act shall become a law after such date it shall take effect imme-
21 diately and shall be deemed to have been in full force and effect on and
22 after April 1, 2002; provided further, however, that this act shall
23 expire and be deemed repealed on [March 31] APRIL 1, 2015.

24 S 3. Subdivision 4 of section 94 of the transportation law, as amended
25 by section 1 of part D of chapter 101 of the laws of 2001, is amended to
26 read as follows:

27 4. All fees charged and collected by the commissioner hereunder shall
28 be deposited [to the miscellaneous special revenue fund - transportation
29 regulation account for the purposes established in this section] BY THE
30 COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND PAYMENT ACCOUNT OF
31 THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTABLISHED PURSUANT TO
32 SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

33 S 4. Subdivision 4 of section 135 of the transportation law, as added
34 by chapter 166 of the laws of 1991, is amended to read as follows:

35 4. All revenues collected pursuant to this section shall be deposited
36 [to the miscellaneous special revenue fund--rail safety inspection
37 account] BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND
38 PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-
39 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW for
40 the purposes established in this section. Fees will be based on reven-
41 ues from the preceding calendar year and shall be assessed on or before
42 July first and are payable by September first of each year. On or before
43 January first of each year following assessment of fees pursuant to this
44 section, the commissioner shall report to the railroad companies annual
45 costs associated with this assessment.

46 S 5. Subdivision 5 of section 144 of the transportation law, as added
47 by chapter 635 of the laws of 1983, is amended to read as follows:

48 5. For furnishing a certification of any paper, record or official
49 document, one dollar. No fees shall be charged or collected for copies
50 of papers, records or official documents, furnished to public officers
51 for use in their official capacity, or for the annual reports of the
52 commissioner in the ordinary course of distribution, but the commission-
53 er may fix reasonable charges for copies of papers, records, official
54 documents and other publications furnished or issued to others under
55 this authority. All fees charged and collected by the commissioner
56 [shall belong to the people of the state and shall be paid monthly,

1 accompanied by a detailed statement thereof, into the treasury of the
2 state to the credit of the general fund] PURSUANT TO THIS SECTION SHALL
3 BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND
4 PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-
5 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

6 S 6. Section 145 of the transportation law is amended by adding a new
7 subdivision 8 to read as follows:

8 8. ALL PENALTIES CHARGED AND COLLECTED BY THE COMMISSIONER PURSUANT TO
9 THIS SECTION SHALL BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL
10 OBLIGATION RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND
11 BRIDGE TRUST FUND ESTABLISHED PURSUANT TO SECTION EIGHT-NINE-B OF THE
12 STATE FINANCE LAW.

13 S 7. Section 88 of the highway law is amended by adding a new subdivi-
14 sion 13 to read as follows:

15 13. ALL FEES COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SECTION
16 SHALL BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION
17 RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST
18 FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE
19 LAW.

20 S 8. Paragraph (a) of subdivision 3 of section 89-b of the state
21 finance law, as amended by section 2 of part B of chapter 58 of the laws
22 of 2012, is amended to read as follows:

23 (a) The special obligation reserve and payment account shall consist
24 (i) of all moneys required to be deposited in the dedicated highway and
25 bridge trust fund pursuant to the provisions of sections two hundred
26 five, two hundred eighty-nine-e, three hundred one-j, five hundred
27 fifteen and eleven hundred sixty-seven of the tax law, section four
28 hundred one of the vehicle and traffic law, and section thirty-one of
29 chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all
30 fees, fines or penalties collected by the commissioner of transportation
31 pursuant to section fifty-two, section three hundred twenty-six, [and
32 subdivisions five, eight and twelve of] section eighty-eight of the
33 highway law, subdivision fifteen of section three hundred eighty-five of
34 the vehicle and traffic law, section two of the chapter of the laws of
35 two thousand three that amended this paragraph, subdivision (d) of
36 section three hundred four-a, paragraph one of subdivision (a) and
37 subdivision (d) of section three hundred five, subdivision six-a of
38 section four hundred fifteen and subdivision (g) of section twenty-one
39 hundred twenty-five of the vehicle and traffic law, section fifteen of
40 this chapter, excepting moneys deposited with the state on account of
41 betterments performed pursuant to subdivision twenty-seven or subdivi-
42 sion thirty-five of section ten of the highway law, AND SECTIONS NINE-
43 TY-FOUR, ONE HUNDRED THIRTY-FIVE, ONE HUNDRED FORTY-FOUR AND ONE HUNDRED
44 FORTY-FIVE OF THE TRANSPORTATION LAW, (iii) any moneys collected by the
45 department of transportation for services provided pursuant to agree-
46 ments entered into in accordance with section ninety-nine-r of the
47 general municipal law, and (iv) any other moneys collected therefor or
48 credited or transferred thereto from any other fund, account or source.

49 S 9. Paragraph (a) of subdivision 3 of section 89-b of the state
50 finance law, as amended by section 3 of part B of chapter 58 of the laws
51 of 2012, is amended to read as follows:

52 (a) The special obligation reserve and payment account shall consist
53 (i) of all moneys required to be deposited in the dedicated highway and
54 bridge trust fund pursuant to the provisions of sections two hundred
55 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
56 hundred sixty-seven of the tax law, section four hundred one of the

1 vehicle and traffic law, and section thirty-one of chapter fifty-six of
 2 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
 3 penalties collected by the commissioner of transportation pursuant to
 4 section fifty-two, section three hundred twenty-six, [and subdivisions
 5 five, eight and twelve of] section eighty-eight of the highway law,
 6 subdivision fifteen of section three hundred eighty-five of the vehicle
 7 and traffic law, section fifteen of this chapter, excepting moneys
 8 deposited with the state on account of betterments performed pursuant to
 9 subdivision twenty-seven or subdivision thirty-five of section ten of
 10 the highway law, AND SECTIONS NINETY-FOUR, ONE HUNDRED THIRTY-FIVE, ONE
 11 HUNDRED FORTY-FOUR AND ONE HUNDRED FORTY-FIVE OF THE TRANSPORTATION LAW
 12 (iii) any moneys collected by the department of transportation for
 13 services provided pursuant to agreements entered into in accordance with
 14 section ninety-nine-r of the general municipal law, and (iv) any other
 15 moneys collected therefor or credited or transferred thereto from any
 16 other fund, account or source.

17 S 10. Paragraph a of subdivision 5 of section 89-b of the state
 18 finance law, as amended by section 60 of part HH of chapter 57 of the
 19 laws of 2013, is amended to read as follows:

20 a. Moneys in the dedicated highway and bridge trust fund shall,
 21 following appropriation by the legislature, be utilized for: recon-
 22 struction, replacement, reconditioning, restoration, rehabilitation and
 23 preservation of state, county, town, city and village roads, highways,
 24 parkways, and bridges thereon, to restore such facilities to their
 25 intended functions; construction, reconstruction, enhancement and
 26 improvement of state, county, town, city, and village roads, highways,
 27 parkways, and bridges thereon, to address current and projected capacity
 28 problems including costs for traffic mitigation activities; aviation
 29 projects authorized pursuant to section fourteen-j of the transportation
 30 law and for payments to the general debt service fund of amounts equal
 31 to amounts required for service contract payments related to aviation
 32 projects as provided and authorized by section three hundred eighty-six
 33 of the public authorities law; programs to assist small and minority and
 34 women-owned firms engaged in transportation construction and recon-
 35 struction projects, including a revolving fund for working capital
 36 loans, and a bonding guarantee assistance program in accordance with
 37 provisions of this chapter; matching federal grants or apportionments to
 38 the state for highway, parkway and bridge capital projects; the acqui-
 39 sition of real property and interests therein required or expected to be
 40 required in connection with such projects; preventive maintenance activ-
 41 ities necessary to ensure that highways, parkways and bridges meet or
 42 exceed their optimum useful life; expenses of control of snow and ice on
 43 state highways by the department of transportation including but not
 44 limited to personal services, nonpersonal services and fringe benefits,
 45 payment of emergency aid for control of snow and ice in municipalities
 46 pursuant to section fifty-five of the highway law, expenses of control
 47 of snow and ice on state highways by municipalities pursuant to section
 48 twelve of the highway law, and for expenses of arterial maintenance
 49 agreements with cities pursuant to section three hundred forty-nine of
 50 the highway law; personal services, NONPERSONAL SERVICES, and fringe
 51 benefit costs of the department of transportation for bus safety
 52 inspection activities, RAIL SAFETY INSPECTION ACTIVITIES, AND TRUCK
 53 SAFETY INSPECTION ACTIVITIES; costs of the department of motor vehicles,
 54 including but not limited to personal and nonpersonal services; costs of
 55 engineering and administrative services of the department of transporta-
 56 tion, including but not limited to fringe benefits; the contract

1 services provided by private firms in accordance with section fourteen
2 of the transportation law; personal services and nonpersonal services,
3 for activities including but not limited to the preparation of designs,
4 plans, specifications and estimates; construction management and super-
5 vision activities; costs of appraisals, surveys, testing and environ-
6 mental impact statements for transportation projects; expenses in
7 connection with buildings, equipment, materials and facilities used or
8 useful in connection with the maintenance, operation, and repair of
9 highways, parkways and bridges thereon; and project costs for:
10 construction, reconstruction, improvement, reconditioning and preserva-
11 tion of rail freight facilities and intercity rail passenger facilities
12 and equipment; construction, reconstruction, improvement, reconditioning
13 and preservation of state, municipal and privately owned ports;
14 construction, reconstruction, improvement, reconditioning and preserva-
15 tion of municipal airports; privately owned airports and aviation capi-
16 tal facilities, excluding airports operated by the state or operated by
17 a bi-state municipal corporate instrumentality for which federal funding
18 is not available provided the project is consistent with an approved
19 airport layout plan; and construction, reconstruction, enhancement,
20 improvement, replacement, reconditioning, restoration, rehabilitation
21 and preservation of state, county, town, city and village roads, high-
22 ways, parkways and bridges; and construction, reconstruction, improve-
23 ment, reconditioning and preservation of fixed ferry facilities of
24 municipal and privately owned ferry lines for transportation purposes,
25 and the payment of debt service required on any bonds, notes or other
26 obligations and related expenses for highway, parkway, bridge and
27 project costs for: construction, reconstruction, improvement, recondi-
28 tioning and preservation of rail freight facilities and intercity rail
29 passenger facilities and equipment; construction, reconstruction,
30 improvement, reconditioning and preservation of state, municipal and
31 privately owned ports; construction, reconstruction, improvement, recondi-
32 tioning and preservation of municipal airports; privately owned
33 airports and aviation capital facilities, excluding airports operated by
34 the state or operated by a bi-state municipal corporate instrumentality
35 for which federal funding is not available provided the project is
36 consistent with an approved airport layout plan; construction, recon-
37 struction, enhancement, improvement, replacement, reconditioning, resto-
38 ration, rehabilitation and preservation of state, county, town, city and
39 village roads, highways, parkways and bridges; and construction, recon-
40 struction, improvement, reconditioning and preservation of fixed ferry
41 facilities of municipal and privately owned ferry lines for transporta-
42 tion purposes, purposes authorized on or after the effective date of
43 this section. Beginning with disbursements made on and after the first
44 day of April, nineteen hundred ninety-three, moneys in such fund shall
45 be available to pay such costs or expenses made pursuant to appropri-
46 ations or reappropriations made during the state fiscal year which began
47 on the first of April, nineteen hundred ninety-two. Beginning the first
48 day of April, nineteen hundred ninety-three, moneys in such fund shall
49 also be used for transfers to the general debt service fund and the
50 revenue bond tax fund of amounts equal to that respectively required for
51 service contract and financing agreement payments as provided and
52 authorized by section three hundred eighty of the public authorities
53 law, section eleven of chapter three hundred twenty-nine of the laws of
54 nineteen hundred ninety-one, as amended, and sections sixty-eight-c and
55 sixty-nine-o of this chapter.

1 S 11. Paragraph a of subdivision 5 of section 89-b of the state
2 finance law, as amended by section 60-a of part HH of chapter 57 of the
3 laws of 2013, is amended to read as follows:
4 a. Moneys in the dedicated highway and bridge trust fund shall,
5 following appropriation by the legislature, be utilized for: recon-
6 struction, replacement, reconditioning, restoration, rehabilitation and
7 preservation of state, county, town, city and village roads, highways,
8 parkways, and bridges thereon, to restore such facilities to their
9 intended functions; construction, reconstruction, enhancement and
10 improvement of state, county, town, city, and village roads, highways,
11 parkways, and bridges thereon, to address current and projected capacity
12 problems including costs for traffic mitigation activities; aviation
13 projects authorized pursuant to section fourteen-j of the transportation
14 law and for payments to the general debt service fund of amounts equal
15 to amounts required for service contract payments related to aviation
16 projects as provided and authorized by section three hundred eighty-six
17 of the public authorities law; programs to assist small and minority and
18 women-owned firms engaged in transportation construction and recon-
19 struction projects, including a revolving fund for working capital
20 loans, and a bonding guarantee assistance program in accordance with
21 provisions of this chapter; matching federal grants or apportionments to
22 the state for highway, parkway and bridge capital projects; the acquisi-
23 tion of real property and interests therein required or expected to be
24 required in connection with such projects; preventive maintenance activ-
25 ities necessary to ensure that highways, parkways and bridges meet or
26 exceed their optimum useful life; expenses of control of snow and ice on
27 state highways by the department of transportation including but not
28 limited to personal services, nonpersonal services and fringe benefits,
29 payment of emergency aid for control of snow and ice in municipalities
30 pursuant to section fifty-five of the highway law, expenses of control
31 of snow and ice on state highways by municipalities pursuant to section
32 twelve of the highway law, and for expenses of arterial maintenance
33 agreements with cities pursuant to section three hundred forty-nine of
34 the highway law; personal services, NONPERSONAL SERVICES, and fringe
35 benefit costs of the department of transportation for bus safety
36 inspection activities, RAIL SAFETY INSPECTION ACTIVITIES, AND TRUCK
37 SAFETY INSPECTION ACTIVITIES; costs of engineering and administrative
38 services of the department of transportation, including but not limited
39 to fringe benefits; the contract services provided by private firms in
40 accordance with section fourteen of the transportation law; personal
41 services and nonpersonal services, for activities including but not
42 limited to the preparation of designs, plans, specifications and esti-
43 mates; construction management and supervision activities; costs of
44 appraisals, surveys, testing and environmental impact statements for
45 transportation projects; expenses in connection with buildings, equip-
46 ment, materials and facilities used or useful in connection with the
47 maintenance, operation, and repair of highways, parkways and bridges
48 thereon; and project costs for: construction, reconstruction, improve-
49 ment, reconditioning and preservation of rail freight facilities and
50 intercity rail passenger facilities and equipment; construction, recon-
51 struction, improvement, reconditioning and preservation of state, munic-
52 ipal and privately owned ports; construction, reconstruction, improve-
53 ment, reconditioning and preservation of municipal airports; privately
54 owned airports and aviation capital facilities, excluding airports oper-
55 ated by the state or operated by a bi-state municipal corporate instru-
56 mentality for which federal funding is not available provided the

1 project is consistent with an approved airport layout plan; and
2 construction, reconstruction, enhancement, improvement, replacement,
3 reconditioning, restoration, rehabilitation and preservation of state,
4 county, town, city and village roads, highways, parkways and bridges;
5 and construction, reconstruction, improvement, reconditioning and pres-
6 ervation of fixed ferry facilities of municipal and privately owned
7 ferry lines for transportation purposes, and the payment of debt service
8 required on any bonds, notes or other obligations and related expenses
9 for highway, parkway, bridge and project costs for: construction, recon-
10 struction, improvement, reconditioning and preservation of rail freight
11 facilities and intercity rail passenger facilities and equipment;
12 construction, reconstruction, improvement, reconditioning and preserva-
13 tion of state, municipal and privately owned ports; construction, recon-
14 struction, improvement, reconditioning and preservation of municipal
15 airports; privately owned airports and aviation capital facilities,
16 excluding airports operated by the state or operated by a bi-state
17 municipal corporate instrumentality for which federal funding is not
18 available provided the project is consistent with an approved airport
19 layout plan; construction, reconstruction, enhancement, improvement,
20 replacement, reconditioning, restoration, rehabilitation and preserva-
21 tion of state, county, town, city and village roads, highways, parkways
22 and bridges; and construction, reconstruction, improvement, recondition-
23 ing and preservation of fixed ferry facilities of municipal and private-
24 ly owned ferry lines for transportation purposes, purposes authorized on
25 or after the effective date of this section. Beginning with disburse-
26 ments made on and after the first day of April, nineteen hundred nine-
27 ty-three, moneys in such fund shall be available to pay such costs or
28 expenses made pursuant to appropriations or reappropriations made during
29 the state fiscal year which began on the first of April, nineteen
30 hundred ninety-two. Beginning the first day of April, nineteen hundred
31 ninety-three, moneys in such fund shall also be used for transfers to
32 the general debt service fund and the revenue bond tax fund of amounts
33 equal to that respectively required for service contract and financing
34 agreement payments as provided and authorized by section three hundred
35 eighty of the public authorities law, section eleven of chapter three
36 hundred twenty-nine of the laws of nineteen hundred ninety-one, as
37 amended, and sections sixty-eight-c and sixty-nine-o of this chapter.

38 S 12. This act shall take effect immediately, provided that the
39 amendments to paragraph (a) of subdivision 3 of section 89-b of the
40 state finance law made by section eight of this act shall be subject to
41 the expiration and reversion of such paragraph pursuant to section 13 of
42 part U1 of chapter 62 of the laws of 2003, as amended, when upon such
43 date the provisions of section nine of this act shall take effect; and
44 provided further that the amendments to paragraph a of subdivision 5 of
45 section 89-b of the state finance law made by section ten of this act
46 shall be subject to the expiration and reversion of such paragraph
47 pursuant to section 2 of part B of chapter 84 of the laws of 2002, as
48 amended, when upon such date the provisions of section eleven of this
49 act shall take effect.

50

PART D

51 Section 1. Section 2 of part D of chapter 58 of the laws of 2013,
52 relating to the hours of operation of the department of motor vehicles
53 and providing for the repeal of such provisions upon expiration thereof,
54 is amended to read as follows:

1 S 2. This act shall take effect immediately [and shall expire and be
2 deemed repealed two years after such date].

3 S 2. This act shall take effect immediately.

4 PART E

5 Section 1. The article heading of article 12-C of the vehicle and
6 traffic law, as added by chapter 751 of the laws of 2005, is amended to
7 read as follows:

8 ACCIDENT PREVENTION COURSE INTERNET, AND
9 OTHER TECHNOLOGY [PILOT] PROGRAM

10 S 2. Sections 399-m and 399-o of the vehicle and traffic law are
11 REPEALED.

12 S 3. Sections 399-k and 399-l of the vehicle and traffic law, as added
13 by chapter 751 of the laws of 2005, are amended to read as follows:

14 S 399-k. Accident prevention course internet technology [pilot]
15 program. The commissioner shall establish and implement a comprehensive
16 [pilot] program to [review and study] ALLOW internet, and other technol-
17 ogies as approved by the commissioner, as a training method for the
18 administration and completion of an approved accident prevention course
19 for the purposes of granting point and insurance premium reduction bene-
20 fits.

21 S 399-l. Application. Applicants for participation in the [pilot]
22 program established pursuant to this article shall be among those acci-
23 dent prevention course sponsoring agencies that have a course approved
24 by the commissioner pursuant to article twelve-B of this title [prior to
25 the effective date of this article and which deliver] AND HAVE SATISFAC-
26 TORILY DELIVERED such course to the public FOR A PERIOD OF ONE YEAR AND
27 CONTINUE TO DELIVER SUCH COURSE, UNLESS EXEMPTED BY THE COMMISSIONER.
28 [Provided, however, the commissioner may, in his or her discretion,
29 approve applications after such date.] In order to be approved for
30 participation in such [pilot] program, the course must comply with the
31 provisions of law, rules and regulations applicable thereto. The
32 commissioner may, in his or her discretion, impose a fee for the
33 submission of each application to participate in the [pilot] program
34 established pursuant to this article. Such fee shall not exceed seven
35 thousand five hundred dollars. The proceeds from such fee shall be
36 deposited in the accident prevention course internet technology [pilot]
37 program fund as established by section eighty-nine-g of the state
38 finance law.

39 S 4. Subdivision 2 of section 399-n of the vehicle and traffic law, as
40 added by chapter 751 of the laws of 2005, is amended to read as follows:

41 2. The commissioner is authorized to impose a fee upon each accident
42 prevention course sponsoring agency approved for participation in the
43 [pilot] program, which shall not exceed eight dollars for each student
44 who completes an accident prevention course by means of the [pilot]
45 program established pursuant to this article.

46 S 5. The section heading, subdivisions 1 and 3 of section 89-g of the
47 state finance law, as added by chapter 751 of the laws of 2005, are
48 amended to read as follows:

49 Accident prevention course internet, and other technology [pilot]
50 program fund. 1. There is hereby established in the joint custody of the
51 state comptroller and the commissioner of taxation and finance a special
52 fund to be known as the "accident prevention course internet, and other
53 technology [pilot] program fund".

1 3. The moneys in the accident prevention course internet, and other
2 technology [pilot] program fund shall be kept separate and shall not be
3 commingled with any other moneys in the custody of the commissioner of
4 taxation and finance and the state comptroller.

5 S 6. Section 5 of chapter 751 of the laws of 2005, amending the insur-
6 ance law and the vehicle and traffic law, relating to establishing the
7 accident prevention course internet technology pilot program, is amended
8 to read as follows:

9 S 5. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law [and shall expire and be deemed repealed five
11 years after the date that the accident prevention course internet, and
12 other technology pilot program is established and implemented by the
13 commissioner of motor vehicles pursuant to article 12-C of the vehicle
14 and traffic law, as added by section three of this act]; provided that
15 any rules and regulations necessary to implement the provisions of this
16 act on its effective date are authorized and directed to be completed on
17 or before such date; and provided, further, that the commissioner of
18 motor vehicles shall notify the legislative bill drafting commission of
19 the date he or she establishes and implements the accident prevention
20 course internet technology pilot program pursuant to article 12-C of the
21 vehicle and traffic law, as added by section three of this act, in order
22 that such commission may maintain an accurate and timely effective data
23 base of the official text of the laws of the state of New York in furth-
24 erance of effecting the provisions of section 44 of the legislative law
25 and section 70-b of the public officers law.

26 S 7. This act shall take effect immediately; provided that sections
27 one through five of this act shall take effect May 18, 2014.

28 PART F

29 Section 1. Subdivision 3 of section 510-a of the vehicle and traffic
30 law is amended by adding a new paragraph (f) to read as follows:

31 (F) A COMMERCIAL DRIVER'S LICENSE SHALL BE SUSPENDED BY THE COMMIS-
32 SIONER IF THE HOLDER FAILS TO AMEND THE LICENSE TO ADD OR REMOVE A
33 LICENSE RESTRICTION AS DIRECTED BY THE COMMISSIONER. SUCH SUSPENSION
34 SHALL REMAIN IN EFFECT UNTIL THE HOLDER OF THE COMMERCIAL DRIVER'S
35 LICENSE AMENDS HIS OR HER LICENSE AS DIRECTED BY THE COMMISSIONER. THE
36 COMMISSIONER SHALL DIRECT THE HOLDER OF SUCH COMMERCIAL DRIVER'S
37 LICENSE, BY FIRST CLASS MAIL TO THE ADDRESS OF SUCH PERSON ON FILE WITH
38 THE DEPARTMENT OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES
39 POSTAL SERVICE, TO AMEND HIS OR HER COMMERCIAL DRIVER'S LICENSE BY
40 ADDING OR REMOVING A SPECIFIED RESTRICTION, AND THAT FAILURE TO AMEND
41 SUCH LICENSE AS DIRECTED SHALL RESULT IN THE SUSPENSION OF HIS OR HER
42 COMMERCIAL DRIVER'S LICENSE NO EARLIER THAN THIRTY DAYS FROM THE DATE OF
43 THE NOTICE TO SUCH HOLDER.

44 S 2. Subdivision 1-a of section 509 of the vehicle and traffic law, as
45 added by section 1 of part J of chapter 59 of the laws of 2006, is
46 amended to read as follows:

47 1-a. Whenever a license is required to operate a commercial motor
48 vehicle, no person shall operate a commercial motor vehicle without the
49 proper endorsements for the specific vehicle being operated or for the
50 passengers or type of cargo being transported; OR WITHOUT THE PROPER
51 RESTRICTIONS OR WITH RESTRICTIONS THAT ARE INAPPLICABLE TO OR INAPPRO-
52 PRIATE FOR THE HOLDER FOR HIS OR HER OPERATION OF COMMERCIAL MOTOR VEHI-
53 CLES.

54 S 3. This act shall take effect immediately.

1

PART G

2 Section 1. Section 2985 of title 11 of article 9 of the public author-
3 ities law is designated title 11-A and such title is amended by adding a
4 new title heading to read as follows:

5 TOLL COLLECTIONS

6 S 2. Subdivision 1 of section 2985 of the public authorities law, as
7 added by chapter 379 of the laws of 1992, is amended to read as follows:

8 1. Notwithstanding any other provision of law, every public authority
9 which operates a toll highway bridge and/or tunnel facility is hereby
10 authorized and empowered to impose monetary liability [on the owner of a
11 vehicle] for failure [of an operator thereof] to comply with the toll
12 collection regulations of such public authority in accordance with the
13 provisions of this section.

14 S 3. Subdivision 3 of section 2985 of the public authorities law, as
15 added by chapter 379 of the laws of 1992, is amended to read as follows:

16 3. For purposes of this section, the term "owner" shall mean any
17 person, corporation, partnership, firm, agency, association, lessor or
18 organization who, at the time of the violation OR WHEN THE OBLIGATION TO
19 PAY THE TOLL IS INCURRED and with respect to the vehicle identified in
20 the notice of liability: (a) is the beneficial or equitable owner of
21 such vehicle; or (b) has title to such vehicle; or (c) is the registrant
22 or co-registrant of such vehicle which is registered with the department
23 of motor vehicles of this state or any other state, territory, district,
24 province, nation or other jurisdiction; or (d) subject to the limita-
25 tions set forth in subdivision ten of this section, uses such vehicle in
26 its vehicle renting and/or leasing business; and includes (e) a person
27 entitled to the use and possession of a vehicle subject to a security
28 interest in another person. For purposes of this section, the term
29 "photo-monitoring system" shall mean a vehicle sensor installed to work
30 in conjunction with a toll collection facility which automatically
31 produces one or more photographs, one or more microphotographs, a vide-
32 otape or other recorded images of each vehicle at the time it is used or
33 operated in [violation of toll collection regulations] OR UPON A TOLL
34 FACILITY. For purposes of this section, the term "toll collection regu-
35 lations" shall mean: those rules and regulations of a public authority
36 providing for and requiring the payment of tolls and/or charges
37 prescribed by such public authority for the use of bridges, tunnels or
38 highways under its jurisdiction or those rules and regulations of a
39 public authority making it unlawful to refuse to pay or to evade or to
40 attempt to evade the payment of all or part of any toll and/or charge
41 for the use of bridges, tunnels or highways under the jurisdiction of
42 such public authority. For purposes of this section, the term "vehicle"
43 shall mean every device in, upon or by which a person or property is or
44 may be transported or drawn upon a highway, except devices used exclu-
45 sively upon stationary rails or tracks.

46 S 4. Subdivision 4 of section 2985 of the public authorities law, as
47 added by chapter 379 of the laws of 1992, is amended to read as follows:

48 4. A certificate, sworn to or affirmed by an agent of the public
49 authority which charged that the violation occurred, or a facsimile
50 thereof, based upon inspection of [photographs, microphotographs, vide-
51 otape or other recorded images] DATA OR IMAGES produced by [a photo-mon-
52 itoring] AN ELECTRONIC TOLL COLLECTION system OR OTHER RECORDS MAIN-
53 TAINED BY OR ON BEHALF OF THE PUBLIC AUTHORITY REGARDING TOLL VIOLATIONS
54 shall be prima facie evidence of the facts contained therein and shall
55 be admissible in any proceeding charging a violation of toll collection

1 regulations, provided that any [photographs, microphotographs, videotape
2 or other recorded images] SUCH DATA, IMAGES, OR RECORDS evidencing such
3 a violation shall be available for inspection and admission into
4 evidence in any proceeding to adjudicate the liability for such
5 violation.

6 S 5. Subdivision 5 of section 2985 of the public authorities law, as
7 added by chapter 379 of the laws of 1992, is amended to read as follows:

8 5. An owner found liable for a violation of toll collection regu-
9 lations pursuant to this section shall for a first violation thereof be
10 liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND
11 FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED
12 dollars or two times the toll evaded whichever is greater; for a second
13 violation thereof both within eighteen months be liable for THE FULL
14 AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a
15 monetary penalty not to exceed [one] TWO hundred dollars or five times
16 the toll evaded whichever is greater; for a third or subsequent
17 violation thereof all within eighteen months be liable for THE FULL
18 AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a
19 monetary penalty not to exceed [one] THREE hundred [fifty] dollars or
20 ten times the toll evaded whichever is greater.

21 S 6. Paragraphs (a), (b) and (d) of subdivision 7 of section 2985 of
22 the public authorities law, as added by chapter 379 of the laws of 1992,
23 are amended to read as follows:

24 (a) A notice of liability shall be sent by first class mail to each
25 person alleged to be liable as an owner for a violation of toll
26 collection regulations. Such notice shall be mailed no later than [thir-
27 ty] ONE HUNDRED TWENTY days after the alleged violation. Personal deliv-
28 ery on the owner shall not be required. A manual or automatic record of
29 mailing prepared in the ordinary course of business shall be prima facie
30 evidence of the mailing of the notice.

31 (b) A notice of liability shall contain the name and address of the
32 person alleged to be liable as an owner for a violation of toll
33 collection regulations pursuant to this section, the registration number
34 AND STATE OF REGISTRATION of the vehicle involved in such violation, the
35 [location where such violation took place, the date and time] LOCATIONS,
36 DATES AND TIMES of EACH USE OF THE FACILITY THAT FORMS THE BASIS OF such
37 violation, THE AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES,
38 and the identification number of the [photo-monitoring] ELECTRONIC TOLL
39 COLLECTION system which recorded the [violation] VEHICLE BEING USED OR
40 OPERATED ON THE TOLL FACILITY or other document locator number.

41 (d) The notice of liability shall be prepared and mailed by OR ON
42 BEHALF OF the public authority having jurisdiction over the toll facili-
43 ty where the violation of toll collection regulations occurred.

44 S 7. Subdivision 8 of section 2985 of the public authorities law, as
45 added by chapter 379 of the laws of 1992, is amended to read as follows:

46 8. Adjudication of the liability imposed upon owners by this section
47 shall be by the entity having jurisdiction over violations of the rules
48 and regulations of the public authority serving the notice of liability
49 or where authorized by an administrative tribunal and all violations
50 shall be heard and determined in the county in which the violation is
51 alleged to have occurred, or in New York city and upon the consent of
52 both parties, in any county within New York city in which the public
53 authority operates or maintains a facility, and in the same manner as
54 charges of other regulatory violations of such public authority or
55 pursuant to the rules and regulations of such administrative tribunal as
56 the case may be. THE ENTITY OR ADMINISTRATIVE TRIBUNAL THAT ADJUDICATES

1 LIABILITY FOR A VIOLATION SHALL COLLECT THE FULL AMOUNT OF THE ASSESSED
2 TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO THE MONETARY PENALTY
3 OWED, AND SHALL PAY TO THE PUBLIC AUTHORITY WHOSE TOLL COLLECTION REGU-
4 LATIONS WERE VIOLATED THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER
5 CHARGES AND FEES AND ONE-HALF OF THE MONETARY PENALTY.

6 S 8. Subdivision 10 of section 2985 of the public authorities law, as
7 amended by chapter 666 of the laws of 1993, is amended to read as
8 follows:

9 10. An owner who is a lessor of a vehicle to which a notice of liabil-
10 ity was issued pursuant to subdivision seven of this section shall not
11 be liable for the violation of the toll collection regulation provided
12 that he or she sends to the public authority [serving the notice of
13 liability and to the court or other entity having jurisdiction] OR ITS
14 DULY AUTHORIZED AGENT FOR THIS PURPOSE a copy of the rental, lease or
15 other such contract document covering such vehicle on the date of [the
16 violation] USE OF A TOLL FACILITY, with the name and address of the
17 lessee clearly legible, within thirty days after receiving [the
18 original] notice of [liability] USE OF THE TOLL FACILITY BY SUCH
19 VEHICLE. Failure to send such information within such thirty day time
20 period shall render the lessor liable for the penalty prescribed by this
21 section. Where the lessor complies with the provisions of this subdivi-
22 sion, the lessee of such vehicle on the date of such [violation] USE OF
23 THE TOLL FACILITY shall be deemed to be the owner of such vehicle for
24 purposes of this section and shall be subject to liability for the
25 violation of toll collection regulations[, provided that the public
26 authority mails a notice of liability to the lessee within ten days
27 after the court, or other entity having jurisdiction, deems the lessee
28 to be the owner]. For purposes of this subdivision the term "lessor"
29 shall mean any person, corporation, firm, partnership, agency, associ-
30 ation or organization engaged in the business of renting or leasing
31 vehicles to any lessee under a rental agreement, lease or otherwise
32 wherein the said lessee has the exclusive use of said vehicle for any
33 period of time. For purposes of this subdivision, the term "lessee"
34 shall mean any person, corporation, firm, partnership, agency, associ-
35 ation or organization that rents, leases or contracts for the use of one
36 or more vehicles and has exclusive use thereof for any period of time.

37 S 9. Subdivision 11 of section 2985 of the public authorities law, as
38 added by chapter 379 of the laws of 1992, is amended to read as follows:

39 11. Except as provided in subdivision ten of this section, if a person
40 receives a notice of liability pursuant to this section it shall be a
41 valid defense to an allegation of liability for a violation of toll
42 collection regulations that the individual who received the notice of
43 liability pursuant to this section was not the owner of the vehicle at
44 the time the [violation occurred] OBLIGATION FOR PAYMENT OF THE TOLL AND
45 OTHER CHARGES WAS INCURRED. If the owner liable for a violation of toll
46 collection regulations pursuant to this section was not the operator of
47 the vehicle at the time of the violation, the owner may maintain an
48 action for indemnification against the operator.

49 S 10. Subdivision 12 of section 2985 of the public authorities law, as
50 added by chapter 379 of the laws of 1992, is amended to read as follows:

51 12. "Electronic toll collection system" shall mean a system of
52 collecting tolls or OTHER charges [which is capable of charging an
53 account holder the appropriate toll or charge by transmission of infor-
54 mation from an electronic device on a motor vehicle to the toll lane,
55 which information is used to charge the account the appropriate toll or
56 charge] USING ELECTRONIC DATA AND IMAGES. In adopting procedures for

1 the preparation and mailing of a notice of liability, the public author-
2 ity having jurisdiction over the toll facility shall adopt guidelines to
3 ensure adequate and timely notice to all electronic toll collection
4 system account holders to inform them when their accounts are delin-
5 quent. An owner who is an account holder under the electronic toll
6 collection system shall not be found liable for a violation of this
7 section unless such authority has first sent a notice of delinquency to
8 such account holder and the account holder was in fact delinquent at the
9 time of the violation.

10 S 11. Section 2985 of the public authorities law is amended by adding
11 three new subdivisions 15, 16 and 17 to read as follows:

12 15. IN ADDITIONAL TO ANY MONETARY LIABILITY THAT MAY BE IMPOSED
13 PURSUANT TO THIS SECTION, A PUBLIC AUTHORITY THAT OPERATES A TOLL HIGH-
14 WAY, BRIDGE OR TUNNEL FACILITY IS HEREBY AUTHORIZED AND EMPOWERED TO
15 IMPOSE AN ADMINISTRATIVE FEE OR FEES ON AN OWNER, AN OPERATOR OR AN
16 ACCOUNT HOLDER THAT HAS VIOLATED TOLL COLLECTION REGULATIONS.

17 16. ANY NOTICE REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY FIRST
18 CLASS MAIL MAY INSTEAD BE SENT, WITH CONSENT, BY ELECTRONIC MEANS OF
19 COMMUNICATION. A MANUAL OR AUTOMATIC RECORD OF ELECTRONIC COMMUNICATIONS
20 PREPARED IN THIS ORDINARY COURSE OF BUSINESS SHALL BE ADEQUATE EVIDENCE
21 OF ELECTRONIC NOTICE.

22 17. THE NEW YORK STATE THRUWAY AUTHORITY AND THE NEW YORK STATE BRIDGE
23 AUTHORITY ARE AUTHORIZED TO ADOPT RULES AND REGULATIONS TO ESTABLISH AN
24 ADMINISTRATIVE TRIBUNAL TO ADJUDICATE THE LIABILITY OF OWNERS FOR
25 VIOLATION OF TOLL COLLECTION REGULATIONS AS DEFINED IN AND IN ACCORDANCE
26 WITH THE PROVISIONS OF THIS SECTION AND THE APPLICABLE TOLL REGULATIONS
27 OF SUCH AUTHORITIES. SUCH TRIBUNAL SHALL HAVE, WITH RESPECT TO VIOLATION
28 OF TOLL COLLECTION REGULATIONS OF SUCH AUTHORITIES, NON-EXCLUSIVE JURIS-
29 DICTION OVER VIOLATIONS OF THE RULES AND REGULATIONS WHICH MAY FROM TIME
30 TO TIME BE ESTABLISHED BY SUCH AUTHORITIES IN ACCORDANCE WITH THE
31 PROVISIONS OF THIS SECTION. VIOLATIONS SHALL BE HEARD AND DETERMINED IN
32 THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED OR IN THE
33 COUNTY IN WHICH THE PUBLIC AUTHORITY HAS ITS PRIMARY OR REGIONAL ADMIN-
34 ISTRATIVE OFFICES AND REGULATIONS MAY PROVIDE FOR THE CONDUCT OF HEAR-
35 INGS VIA VIDEOCONFERENCING.

36 S 12. Subdivision 2 of section 87 of the public officers law is
37 amended by adding a new paragraph (n) to read as follows:

38 (N) ARE DATA OR IMAGES PRODUCED BY AN ELECTRONIC TOLL COLLECTION
39 SYSTEM UNDER AUTHORITY OF SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE
40 OF THE PUBLIC AUTHORITIES LAW.

41 S 13. Subdivision 4-d of section 510 of the vehicle and traffic law,
42 as added by chapter 379 of the laws of 1992, is amended to read as
43 follows:

44 4-d. Suspension of registration for failure to answer or pay penalties
45 with respect to certain violations. Upon the receipt of a notification,
46 IN THE MANNER AND FORM PRESCRIBED BY THE COMMISSIONER, from a court
47 [or], an administrative tribunal, A PUBLIC AUTHORITY, OR ANY OTHER
48 PUBLIC ENTITY IMPOSING VIOLATIONS, that an owner of a motor vehicle
49 failed to appear on the return date or dates or a new subsequent
50 adjourned date or dates or failed to pay any penalty imposed by a court
51 or failed to comply with the rules and regulations of an administrative
52 tribunal following entry of a final decision or decisions, in response
53 to [five] THREE or more notices of liability or other process, issued
54 within an eighteen month period FROM ANY AND ALL JURISDICTIONS charging
55 such owner with a violation of toll collection regulations in accordance
56 with the provisions of section two thousand nine hundred eighty-five of

1 the public authorities law or sections sixteen-a, sixteen-b and
2 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
3 hundred fifty, OR OTHER COMPARABLE LAW, the commissioner or his OR HER
4 agent shall suspend the registration of the vehicle or vehicles involved
5 in the violation or the privilege of operation of any motor vehicle
6 owned by the registrant. Such suspension shall take effect no less than
7 thirty days from the date on which notice thereof is sent by the commis-
8 sioner to the person whose registration or privilege is suspended and
9 shall remain in effect until such registrant has appeared in response to
10 such notices of liability or has paid such penalty or in the case of an
11 administrative tribunal, the registrant has complied with the rules and
12 regulations following the entry of a final decision or decisions.

13 S 14. Subdivision 8 of section 402 of the vehicle and traffic law, as
14 amended by chapter 61 of the laws of 1989 and as renumbered by chapter
15 648 of the laws of 2006, is amended and a new subdivision 9 is added to
16 read as follows:

17 8. [The] EXCEPT AS PROVIDED IN SUBDIVISION NINE OF THIS SECTION, THE
18 violation of this section shall be punishable by a fine of not less than
19 twenty-five nor more than two hundred dollars.

20 9. THE VIOLATION OF THIS SECTION ON A TOLL HIGHWAY, BRIDGE AND/OR
21 TUNNEL FACILITY SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN ONE
22 HUNDRED NOR MORE THAN FIVE HUNDRED DOLLARS.

23 S 15. Subparagraph (i) of paragraph a of subdivision 5-a of section
24 401 of the vehicle and traffic law, as amended by section 9 of chapter
25 189 of the laws of 2013, is amended to read as follows:

26 (i) If at the time of application for a registration or renewal there-
27 of there is a certification from a court, parking violations bureau,
28 traffic and parking violations agency or administrative tribunal of
29 appropriate jurisdiction [or administrative tribunal of appropriate
30 jurisdiction] that the registrant or his or her representative failed to
31 appear on the return date or any subsequent adjourned date or failed to
32 comply with the rules and regulations of an administrative tribunal
33 following entry of a final decision in response to a total of three or
34 more summonses or other process in the aggregate, issued within an eigh-
35 teen month period, charging either that: (i) such motor vehicle was
36 parked, stopped or standing, or that such motor vehicle was operated for
37 hire by the registrant or his or her agent without being licensed as a
38 motor vehicle for hire by the appropriate local authority, in violation
39 of any of the provisions of this chapter or of any law, ordinance, rule
40 or regulation made by a local authority; or (ii) the registrant was
41 liable in accordance with section eleven hundred eleven-a of this chap-
42 ter or section eleven hundred eleven-b of this chapter for a violation
43 of subdivision (d) of section eleven hundred eleven of this chapter; or
44 (iii) the registrant was liable in accordance with section eleven
45 hundred eleven-c of this chapter for a violation of a bus lane
46 restriction as defined in such section, or (iv) the registrant was
47 liable in accordance with section eleven hundred eighty-b of this chap-
48 ter for a violation of subdivision (c) or (d) of section eleven hundred
49 eighty of this chapter; OR (V) THE REGISTRANT WAS LIABLE IN ACCORDANCE
50 WITH SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHOR-
51 ITIES LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF CHAPTER SEVEN
52 HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, the commis-
53 sioner or his or her agent shall deny the registration or renewal appli-
54 cation until the applicant provides proof from the court, traffic and
55 parking violations agency or administrative tribunal wherein the charges
56 are pending that an appearance or answer has been made or in the case of

1 an administrative tribunal that he or she has complied with the rules
2 and regulations of said tribunal following entry of a final decision.
3 Where an application is denied pursuant to this section, the commission-
4 er may, in his or her discretion, deny a registration or renewal appli-
5 cation to any other person for the same vehicle and may deny a registra-
6 tion or renewal application for any other motor vehicle registered in
7 the name of the applicant where the commissioner has determined that
8 such registrant's intent has been to evade the purposes of this subdivi-
9 sion and where the commissioner has reasonable grounds to believe that
10 such registration or renewal will have the effect of defeating the
11 purposes of this subdivision. Such denial shall only remain in effect as
12 long as the summonses remain unanswered, or in the case of an adminis-
13 trative tribunal, the registrant fails to comply with the rules and
14 regulations following entry of a final decision.

15 S 15-a. Paragraph a of subdivision 5-a of section 401 of the vehicle
16 and traffic law, as amended by section 9-a of chapter 189 of the laws of
17 2013, is amended to read as follows:

18 a. If at the time of application for a registration or renewal thereof
19 there is a certification from a court or administrative tribunal of
20 appropriate jurisdiction that the registrant or his or her represen-
21 tative failed to appear on the return date or any subsequent adjourned
22 date or failed to comply with the rules and regulations of an adminis-
23 trative tribunal following entry of a final decision in response to a
24 total of three or more summonses or other process in the aggregate,
25 issued within an eighteen month period, charging either that: (i) such
26 motor vehicle was parked, stopped or standing, or that such motor vehi-
27 cle was operated for hire by the registrant or his or her agent without
28 being licensed as a motor vehicle for hire by the appropriate local
29 authority, in violation of any of the provisions of this chapter or of
30 any law, ordinance, rule or regulation made by a local authority; or
31 (ii) the registrant was liable in accordance with section eleven hundred
32 eleven-b of this chapter for a violation of subdivision (d) of section
33 eleven hundred eleven of this chapter; or (iii) the registrant was
34 liable in accordance with section eleven hundred eleven-c of this chap-
35 ter for a violation of a bus lane restriction as defined in such
36 section; or (iv) the registrant was liable in accordance with section
37 eleven hundred eighty-b of this chapter for a violation of subdivision
38 (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chap-
39 ter; OR (V) THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION TWO
40 THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR
41 SECTIONS SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF CHAPTER SEVEN HUNDRED
42 SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, the commissioner or
43 his or her agent shall deny the registration or renewal application
44 until the applicant provides proof from the court or administrative
45 tribunal wherein the charges are pending that an appearance or answer
46 has been made or in the case of an administrative tribunal that he or
47 she has complied with the rules and regulations of said tribunal follow-
48 ing entry of a final decision. Where an application is denied pursuant
49 to this section, the commissioner may, in his or her discretion, deny a
50 registration or renewal application to any other person for the same
51 vehicle and may deny a registration or renewal application for any other
52 motor vehicle registered in the name of the applicant where the commis-
53 sioner has determined that such registrant's intent has been to evade
54 the purposes of this subdivision and where the commissioner has reason-
55 able grounds to believe that such registration or renewal will have the
56 effect of defeating the purposes of this subdivision. Such denial shall

1 only remain in effect as long as the summonses remain unanswered, or in
2 the case of an administrative tribunal, the registrant fails to comply
3 with the rules and regulations following entry of a final decision.

4 S 15-b. Paragraph a of subdivision 5-a of section 401 of the vehicle
5 and traffic law, as amended by section 9-b of chapter 189 of the laws of
6 2013, is amended to read as follows:

7 a. If at the time of application for a registration or renewal thereof
8 there is a certification from a court or administrative tribunal of
9 appropriate jurisdiction that the registrant or his or her represen-
10 tative failed to appear on the return date or any subsequent adjourned
11 date or failed to comply with the rules and regulations of an adminis-
12 trative tribunal following entry of a final decision in response to
13 three or more summonses or other process, issued within an eighteen
14 month period, charging that such motor vehicle was parked, stopped or
15 standing, or that such motor vehicle was operated for hire by the regis-
16 trant or his or her agent without being licensed as a motor vehicle for
17 hire by the appropriate local authority, in violation of any of the
18 provisions of this chapter or of any law, ordinance, rule or regulation
19 made by a local authority, or the registrant was liable in accordance
20 with section eleven hundred eleven-c of this chapter for a violation of
21 a bus lane restriction as defined in such section, or the registrant was
22 liable in accordance with section eleven hundred eighty-b of this chap-
23 ter for a violation of subdivision (b), (c), (d), (f) or (g) of section
24 eleven hundred eighty of this chapter, OR THE REGISTRANT WAS LIABLE IN
25 ACCORDANCE WITH SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE
26 PUBLIC AUTHORITIES LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF
27 CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED
28 FIFTY, the commissioner or his or her agent shall deny the registration
29 or renewal application until the applicant provides proof from the court
30 or administrative tribunal wherein the charges are pending that an
31 appearance or answer has been made or in the case of an administrative
32 tribunal that he or she has complied with the rules and regulations of
33 said tribunal following entry of a final decision. Where an application
34 is denied pursuant to this section, the commissioner may, in his or her
35 discretion, deny a registration or renewal application to any other
36 person for the same vehicle and may deny a registration or renewal
37 application for any other motor vehicle registered in the name of the
38 applicant where the commissioner has determined that such registrant's
39 intent has been to evade the purposes of this subdivision and where the
40 commissioner has reasonable grounds to believe that such registration or
41 renewal will have the effect of defeating the purposes of this subdivi-
42 sion. Such denial shall only remain in effect as long as the summonses
43 remain unanswered, or in the case of an administrative tribunal, the
44 registrant fails to comply with the rules and regulations following
45 entry of a final decision.

46 S 15-c. Paragraph a of subdivision 5-a of section 401 of the vehicle
47 and traffic law, as amended by section 9-c of chapter 189 of the laws of
48 2013, is amended to read as follows:

49 a. If at the time of application for a registration or renewal thereof
50 there is a certification from a court or administrative tribunal of
51 appropriate jurisdiction that the registrant or his representative
52 failed to appear on the return date or any subsequent adjourned date or
53 failed to comply with the rules and regulations of an administrative
54 tribunal following entry of a final decision in response to three or
55 more summonses or other process, issued within an eighteen month period,
56 charging that such motor vehicle was parked, stopped or standing, or

1 that such motor vehicle was operated for hire by the registrant or his
2 agent without being licensed as a motor vehicle for hire by the appro-
3 priate local authority, in violation of any of the provisions of this
4 chapter or of any law, ordinance, rule or regulation made by a local
5 authority, or the registrant was liable in accordance with section elev-
6 en hundred eighty-b of this chapter for violations of subdivision (b),
7 (c), (d), (f) or (g) of section eleven hundred eighty of this chapter,
8 OR THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION TWO THOUSAND
9 NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS
10 SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR
11 OF THE LAWS OF NINETEEN HUNDRED FIFTY, the commissioner or his agent
12 shall deny the registration or renewal application until the applicant
13 provides proof from the court or administrative tribunal wherein the
14 charges are pending that an appearance or answer has been made or in the
15 case of an administrative tribunal that he has complied with the rules
16 and regulations of said tribunal following entry of a final decision.
17 Where an application is denied pursuant to this section, the commission-
18 er may, in his discretion, deny a registration or renewal application to
19 any other person for the same vehicle and may deny a registration or
20 renewal application for any other motor vehicle registered in the name
21 of the applicant where the commissioner has determined that such regis-
22 trant's intent has been to evade the purposes of this subdivision and
23 where the commissioner has reasonable grounds to believe that such
24 registration or renewal will have the effect of defeating the purposes
25 of this subdivision. Such denial shall only remain in effect as long as
26 the summonses remain unanswered, or in the case of an administrative
27 tribunal, the registrant fails to comply with the rules and regulations
28 following entry of a final decision.

29 S 15-d. Paragraph a of subdivision 5-a of section 401 of the vehicle
30 and traffic law, as separately amended by chapters 339 and 592 of the
31 laws of 1987, is amended to read as follows:

32 a. If at the time of application for a registration or renewal thereof
33 there is a certification from a court or administrative tribunal of
34 appropriate jurisdiction that the registrant or his representative
35 failed to appear on the return date or any subsequent adjourned date or
36 failed to comply with the rules and regulations of an administrative
37 tribunal following entry of a final decision in response to three or
38 more summonses or other process, issued within an eighteen month period,
39 charging that such motor vehicle was parked, stopped or standing, or
40 that such motor vehicle was operated for hire by the registrant or his
41 agent without being licensed as a motor vehicle for hire by the appro-
42 priate local authority, in violation of any of the provisions of this
43 chapter or of any law, ordinance, rule or regulation made by a local
44 authority, OR THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION TWO
45 THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR
46 SECTIONS SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF CHAPTER SEVEN HUNDRED
47 SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, the commissioner or
48 his agent shall deny the registration or renewal application until the
49 applicant provides proof from the court or administrative tribunal wher-
50 ein the charges are pending that an appearance or answer has been made
51 or in the case of an administrative tribunal that he has complied with
52 the rules and regulations of said tribunal following entry of a final
53 decision. Where an application is denied pursuant to this section, the
54 commissioner may, in his discretion, deny a registration or renewal
55 application to any other person for the same vehicle and may deny a
56 registration or renewal application for any other motor vehicle regis-

1 tered in the name of the applicant where the commissioner has determined
2 that such registrant's intent has been to evade the purposes of this
3 subdivision and where the commissioner has reasonable grounds to believe
4 that such registration or renewal will have the effect of defeating the
5 purposes of this subdivision. Such denial shall only remain in effect as
6 long as the summonses remain unanswered, or in the case of an adminis-
7 trative tribunal, the registrant fails to comply with the rules and
8 regulations following entry of a final decision.

9 S 16. The vehicle and traffic law is amended by adding a new section
10 518 to read as follows:

11 S 518. RECIPROCAL AGREEMENTS CONCERNING SUSPENSION OR DENIAL OF REGIS-
12 TRATION OF A MOTOR VEHICLE FOR VIOLATIONS OF TOLL COLLECTION REGU-
13 LATIONS. 1. THE COMMISSIONER MAY EXECUTE A RECIPROCAL COMPACT OR AGREE-
14 MENT REGARDING TOLL COLLECTION VIOLATIONS WITH THE MOTOR VEHICLE
15 ADMINISTRATOR OR OTHER AUTHORIZED OFFICIAL OF ANOTHER STATE NOT INCON-
16 SISTENT WITH THE PROVISIONS OF THIS CHAPTER. SUCH COMPACT OR AGREEMENT
17 SHALL PROVIDE THAT IF A REGISTRATION OF A MOTOR VEHICLE WOULD BE
18 SUSPENDED PURSUANT TO SUBDIVISION FIVE-A OF SECTION FOUR HUNDRED ONE OF
19 THIS CHAPTER, OR PURSUANT TO A COMPARABLE LAW OR REGULATION OF ANOTHER
20 STATE, OR IF THE REGISTRATION OR RENEWAL OF A MOTOR VEHICLE WOULD BE
21 DENIED PURSUANT TO SUBDIVISION FOUR-D OF SECTION 510 OF THIS ARTICLE, OR
22 PURSUANT TO A COMPARABLE LAW OR REGULATION OF ANOTHER STATE, BECAUSE AN
23 OWNER OF A MOTOR VEHICLE (A) FAILED TO APPEAR, (B) FAILED TO PAY ANY
24 PENALTY IMPOSED BY A COURT, OR (C) FAILED TO COMPLY WITH THE RULES AND
25 REGULATIONS OF AN ADMINISTRATIVE TRIBUNAL FOLLOWING ENTRY OF A FINAL
26 DECISION IN RESPONSE TO THREE OR MORE NOTICES OF LIABILITY OF OTHER
27 PROCESS ISSUED WITHIN AN EIGHTEEN-MONTH PERIOD IN ACCORDANCE WITH THE
28 PROVISIONS OF SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE
29 PUBLIC AUTHORITIES LAW OR SECTIONS ONE THROUGH SIXTEEN AND SIXTEEN-A,
30 SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR OF THE
31 LAWS OF NINETEEN HUNDRED FIFTY, OR WITH ANY COMPARABLE LAW OR REGULATION
32 OF ANOTHER STATE, THEN THE STATE ISSUING THE REGISTRATION SHALL LIKEWISE
33 SUSPEND THE REGISTRATION OR DENY THE REGISTRATION OR RENEWAL, UNTIL SUCH
34 REGISTRANT OR APPLICANT HAS APPEARED IN RESPONSE TO SUCH NOTICES OF
35 LIABILITY, OR HAS PAID SUCH PENALTY, OR, IN THE CASE OF AN ADMINISTRA-
36 TIVE TRIBUNAL, THE REGISTRANT OR APPLICANT HAS COMPLIED WITH THE RULES
37 AND REGULATIONS FOLLOWING THE ENTRY OF A FINAL DECISION OR DECISIONS.

38 2. SUCH COMPACT OR AGREEMENT SHALL ALSO PROVIDE SUCH TERMS AND PROCE-
39 DURES AS ARE NECESSARY AND PROPER TO FACILITATE ITS ADMINISTRATION. ANY
40 SUCH COMPACT OR AGREEMENT SHALL SPECIFY THE VIOLATIONS SUBJECT TO THE
41 COMPACT OR AGREEMENT, AND SHALL INCLUDE A DETERMINATION OF COMPARABLE
42 VIOLATIONS IN EACH STATE IF ANY SUCH VIOLATIONS ARE OF A SUBSTANTIALLY
43 SIMILAR NATURE BUT ARE NOT DENOMINATED OR DESCRIBED IN PRECISELY THE
44 SAME WORDS IN EACH PARTY STATE.

45 3. THE WORD "STATE" WHEN USED IN THIS SECTION SHALL MEAN ANY STATE,
46 TERRITORY, A POSSESSION OF THE UNITED STATES, DISTRICT OF COLUMBIA OR
47 ANY PROVINCE OF CANADA.

48 S 17. Paragraph b of subdivision 2 of section 240 of the vehicle and
49 traffic law, as added by chapter 715 of the laws of 1972, is amended to
50 read as follows:

51 b. No charge may be established except upon proof by substantial
52 evidence; EXCEPT THAT FOR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH
53 SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES
54 LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN
55 HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, NO CHARGE

1 MAY BE ESTABLISHED EXCEPT UPON PROOF BY PREPONDERANCE OF EVIDENCE AS
2 SUBMITTED.

3 S 18. Subdivision 3 of section 165.15 of the penal law is amended to
4 read as follows:

5 3. With intent to obtain railroad, subway, bus, air, taxi or any other
6 public transportation service OR TO USE ANY HIGHWAY, PARKWAY, ROAD,
7 BRIDGE OR TUNNEL without payment of the lawful charge OR TOLL therefor,
8 or to avoid payment of the lawful charge OR TOLL for such transportation
9 service which has been rendered to him OR HER OR FOR SUCH USE OF ANY
10 HIGHWAY, PARKWAY, ROAD, BRIDGE OR TUNNEL, he OR SHE obtains or attempts
11 to obtain such service OR USE or avoids or attempts to avoid payment
12 therefor by force, intimidation, stealth, deception or mechanical
13 tampering, or by unjustifiable failure or refusal to pay; or

14 S 19. Subdivision 10 of section 1209-a of the public authorities law,
15 as amended by chapter 379 of the laws of 1992, is amended to read as
16 follows:

17 10. Funds. [All] EXCEPT FOR PENALTIES, EVADED TOLLS AND OTHER CHARGES
18 COLLECTED AND PAID TO THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY IN
19 ACCORDANCE WITH THE PROVISIONS OF SECTION TWO THOUSAND NINE HUNDRED
20 EIGHTY-FIVE OF THIS CHAPTER, ALL penalties collected pursuant to the
21 provisions of this section shall be paid to the authority to the credit
22 of a transit crime fund which the authority shall establish. Any sums in
23 this fund shall be used to pay for programs selected by the board of the
24 authority, in its discretion, to reduce the incidence of crimes and
25 infractions on transit facilities, or to improve the enforcement of laws
26 against such crimes and infractions. Such funds shall be in addition to
27 and not in substitution for any funds provided by the state or the city
28 of New York for such purposes.

29 S 20. Section 1209-a of the public authorities law is amended by
30 adding a new subdivision 11 to read as follows:

31 11. NOTICE. ANY NOTICE OR COMMUNICATION REQUIRED TO BE SENT PURSUANT
32 TO THIS SECTION BY REGISTERED MAIL OR CERTIFIED MAIL MAY INSTEAD BE SENT
33 BY FIRST CLASS MAIL OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNI-
34 CATION.

35 S 21. Section 2 of chapter 774 of the laws of 1950, relating to agree-
36 ing with the state of New Jersey with respect to rules and regulations
37 governing traffic on vehicular crossings operated by the port of New
38 York authority, is amended to read as follows:

39 S 2. No traffic shall be permitted in or upon vehicular crossings
40 except upon the payment of such tolls and other charges as may from time
41 to time be prescribed by the port authority. It is hereby declared to be
42 unlawful for any person to refuse to pay, or to evade or to attempt to
43 evade the payment of such tolls or other charges. THE OBLIGATION TO PAY
44 SUCH TOLLS AND OTHER CHARGES IS INCURRED AT THE TIME OF ENTRY INTO OR
45 USE OF THE PARTICULAR VEHICULAR CROSSING.

46 S 22. Section 16-a of chapter 774 of the laws of 1950, relating to
47 agreeing with the state of New Jersey with respect to rules and regu-
48 lations governing traffic on vehicular crossings operated by the port of
49 New York authority, as added by chapter 379 of the laws of 1992, is
50 amended to read as follows:

51 S 16-a. Owner liability for failure of operator to comply with toll
52 collection regulations of the port authority. Notwithstanding any other
53 provision of law and in accordance with the provisions of [section]
54 SECTIONS 16-b AND 16-C of this act, an owner of a vehicle may be held
55 liable for failure of an operator thereof to comply with the toll
56 collection regulations of the port authority of New York and New Jersey

1 (hereinafter called port authority). The owner of a vehicle shall be
2 liable pursuant to this section if such vehicle was used or operated
3 with the permission of the owner, express or implied, in violation of
4 the toll collection regulations of the port authority, and such
5 violation is evidenced by information obtained from a photo-monitoring
6 system, provided, however, that no owner of a vehicle shall be liable
7 where the operator of such vehicle has been convicted of a violation of
8 those toll collection regulations for the same incident.

9 S 23. Section 16-b of chapter 774 of the laws of 1950, relating to
10 agreeing with the state of New Jersey with respect to rules and regu-
11 lations governing traffic on vehicular crossings operated by the port of
12 New York authority, as added by chapter 379 of the laws of 1992, subdi-
13 vision f as amended by chapter 666 of the laws of 1993, is amended to
14 read as follows:

15 S 16-b. Imposition of liability for failure of operator to comply with
16 toll collection regulations of the port authority. The liability set
17 forth in section 16-a of this act, shall be imposed upon an owner for a
18 violation by an operator of the toll collection regulations of the port
19 authority occurring within the territorial limits of the state of New
20 York in accordance with the following:

21 a. For the purposes of this section AND SECTIONS 16-A AND 16-C OF THIS
22 ACT, the term "owner" shall mean any person, corporation, partnership,
23 firm, agency, association, lessor, or organization who, at the time of
24 the violation [in any city in which a vehicle is operated] OR THE OBLI-
25 GATION FOR PAYMENT OF THE TOLL CHARGES IS INCURRED: (i) is the benefi-
26 cial or equitable owner of such vehicle; or (ii) has title to such vehi-
27 cle; or (iii) is the registrant or co-registrant of such vehicle which
28 is registered with the department of motor vehicles of this state or any
29 other state, territory, district, province, nation or other jurisdic-
30 tion; or (iv) subject to the limitations set forth in subdivision f of
31 this section, uses such vehicle in its vehicle renting and/or leasing
32 business; and includes (v) a person entitled to the use and possession
33 of a vehicle subject to a security interest in another person. For the
34 purposes of this section, the term "operator" shall mean any person,
35 corporation, firm, partnership, agency, association, organization or
36 lessee that uses or operates a vehicle with or without the permission of
37 the owner, and an owner who operates his or her own vehicle. FOR
38 PURPOSES OF THIS SECTION AND SECTION 16-A OF THIS ACT, THE TERM "ELEC-
39 TRONIC TOLL COLLECTION SYSTEM" SHALL MEAN A SYSTEM FOR COLLECTING TOLLS
40 OR OTHER CHARGES USING ELECTRONIC DATA AND IMAGES. For purposes of this
41 section, the term "photo-monitoring system" shall mean a vehicle sensor
42 installed to work in conjunction with a toll collection facility which
43 automatically produces one or more photographs, one or more microphoto-
44 graphs, a videotape, or other recorded images of each vehicle at the
45 time it is used or operated in [violation of the toll collection regu-
46 lations of the port authority] OR UPON VEHICULAR CROSSINGS OPERATED BY
47 THE PORT AUTHORITY. For purposes of this section AND SECTIONS 16-A AND
48 16-C OF THIS ACT, the term "toll collection regulations of the port
49 authority" shall refer to the traffic regulations for interstate vehicu-
50 lar crossings operated by the port authority as set forth in this chap-
51 ter and in chapter 192 of the laws of New Jersey of 1950, and specif-
52 ically that section of the laws which prohibits traffic in or upon
53 vehicular crossings operated by the port authority except upon the
54 payment of such tolls and other charges as may from time to time be
55 prescribed by the port authority and which further makes it unlawful for
56 any person to refuse to pay, or to evade or to attempt to evade the

1 payment of such tolls or other charges. For purposes of this section
2 AND SECTION 16-A OF THIS ACT, the term "vehicle" shall mean every device
3 in, upon, or by which a person or property is or may be transported or
4 drawn upon a highway[, except devices used exclusively upon stationary
5 rails or tracks].

6 b. A certificate, sworn to or affirmed by an agent of the port author-
7 ity, or a facsimile thereof, based upon inspection of [photographs,
8 microphotographs, videotape or other recorded images] DATA OR IMAGES
9 produced by [a photo-monitoring system] ITS ELECTRONIC TOLL COLLECTION
10 SYSTEM OR OTHER RECORDS MAINTAINED BY OR ON BEHALF OF THE PORT AUTHORITY
11 REGARDING TOLL VIOLATIONS shall be prima facie evidence of the facts
12 contained therein and shall be admissible in any proceeding charging a
13 violation of toll collection regulations of the port authority, provided
14 that any [photographs, microphotographs, videotape or other recorded
15 images] SUCH DATA, IMAGES, OR RECORDS evidencing such a violation shall
16 be available for inspection and admission into evidence in any proceed-
17 ing to adjudicate the liability for such violation.

18 c. An imposition of liability pursuant to this section shall be based
19 upon a preponderance of evidence as submitted. An imposition of liabil-
20 ity pursuant to this section shall not be deemed a conviction of an
21 operator and shall not be made part of the motor vehicle operating
22 record, furnished pursuant to section 354 of the vehicle and traffic
23 law, of the person upon whom such liability is imposed nor shall it be
24 used for insurance purposes in the provision of motor vehicle insurance
25 coverage.

26 d. (i) A notice of liability shall be sent by first class mail OR,
27 WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION to each person
28 alleged to be liable [as an owner] for a violation pursuant to this
29 section of the toll collection regulations of the port authority. Such
30 notice shall be [mailed] SENT no later than [thirty] ONE HUNDRED TWENTY
31 days after the alleged violation. Personal delivery [on the owner] shall
32 not be required. A manual or automatic record of [mailing] SENDING THE
33 NOTICE prepared in the ordinary course of business shall be prima facie
34 evidence of the [mailing] SENDING of the notice.

35 (ii) A notice of liability shall contain the name and address of the
36 person alleged to be liable [as an owner] for a violation of the toll
37 collection regulations of the port authority pursuant to this section,
38 the registration number AND STATE OF REGISTRATION of the vehicle
39 involved in such violation, the [location where such violation took
40 place, the date and time] LOCATIONS, DATES AND TIMES OF EACH USE OF THE
41 VEHICULAR CROSSING THAT FORMS THE BASIS of such violation, THE AMOUNT OF
42 THE ASSESSED TOLLS AND OTHER CHARGES, and the identification number of
43 the [photo-monitoring system] ELECTRONIC TOLL COLLECTION SYSTEM which
44 recorded the [violation] USE or other document locator number.

45 (iii) The notice of liability shall contain information advising the
46 person charged of the manner and the time in which he may contest the
47 liability alleged in the notice. Such notice of liability shall also
48 contain a warning to advise the persons charged that failure to contest
49 in the manner and time provided shall be deemed an admission of liabil-
50 ity and that a default judgment may be entered thereon.

51 (iv) The notice of liability shall be prepared and [mailed] SENT by
52 the port authority or its duly authorized agent.

53 e. If an owner receives a notice of liability pursuant to this section
54 for any time period during which the vehicle was reported to the police
55 department as having been stolen, it shall be a valid defense to an
56 allegation of liability for a violation of the toll collection regu-

1 lations of the port authority that the vehicle had been reported to the
2 police as stolen prior to the time the violation occurred and had not
3 been recovered by such time. If an owner receives a notice of liability
4 pursuant to this section for any time period during which the vehicle
5 was stolen, but not as yet reported to the police as having been stolen,
6 it shall be a valid defense to an allegation of liability for a
7 violation of toll collection regulations of the port authority pursuant
8 to this section that the vehicle was reported as stolen within two hours
9 after discovery of the theft by the owner. For purposes of asserting the
10 defense provided by this subdivision, it shall be sufficient that a
11 certified copy of the police report on the stolen vehicle be sent by
12 first class mail to the court or other entity having jurisdiction.

13 f. An owner, as defined in subdivision a of this section, who is a
14 lessor of a vehicle to which a notice of liability was issued pursuant
15 to subdivision d of this section shall not be liable pursuant to this
16 section for the violation of the toll collection regulations of the port
17 authority provided that he or she sends to the port authority [serving
18 the notice of liability and to the court or other entity having juris-
19 diction] OR ITS DULY AUTHORIZED AGENT FOR THIS PURPOSE a copy of the
20 rental, lease or other such contract document covering such vehicle on
21 the date of the [violation] USE OF THE VEHICULAR CROSSING, with the name
22 and address of the lessee clearly legible, within thirty days after
23 receiving from the port authority or its duly authorized agent [the
24 original] FOR THIS PURPOSE notice of [liability] THE USE OF THE VEHICU-
25 LAR CROSSING BY SUCH VEHICLE. Failure to send such information within
26 such thirty day time period shall render the lessor liable for the
27 penalty prescribed by this section. Where the lessor complies with the
28 provisions of this subdivision, the lessee of such vehicle on the date
29 of such [violation] USE OF THE VEHICULAR CROSSING shall be deemed to be
30 the owner of such vehicle for purposes of this section and shall be
31 subject to liability for the violation of toll collection regulations of
32 the port authority [provided that the port authority or its duly author-
33 ized agent mails a notice of liability to the lessee within ten days
34 after the court, or other entity having jurisdiction, deems the lessee
35 to be the owner]. For purposes of this subdivision the term "lessor"
36 shall mean any person, corporation, firm, partnership, agency, associ-
37 ation or organization engaged in the business of renting or leasing
38 vehicles to any lessee under a rental agreement, lease or otherwise
39 wherein the said lessee has the exclusive use of said vehicle for any
40 period of time. For the purposes of this subdivision, the term "lessee"
41 shall mean any person, corporation, firm, partnership, agency, associ-
42 ation or organization that rents, leases or contracts for the use of one
43 or more vehicles and has exclusive use thereof for any period of time.

44 g. Except as provided in subdivision f of this section, if a person
45 receives a notice of liability pursuant to this section it shall be a
46 valid defense to an allegation of liability for a violation of toll
47 collection regulations of the port authority that the individual who
48 received the notice of liability pursuant to this section was not the
49 owner of the vehicle at the time the [violation] USE OF THE VEHICULAR
50 CROSSING occurred. If the owner liable for a violation of the toll
51 collection regulations of the port authority pursuant to this section
52 was not the operator of the vehicle at the time of the [violation] USE
53 OF THE VEHICULAR CROSSING, the owner may maintain an action for indemni-
54 fication against the operator. The operator of the vehicle may apply to
55 the court or other entity having jurisdiction to adjudicate the liabil-
56 ity imposed under this section to accept responsibility for the

1 violation and satisfactorily discharge all applicable tolls, charges,
2 FEES, and penalties related to the violation.

3 h. ["Electronic toll collection system" shall mean a system of
4 collecting tolls or charges which is capable of charging an account
5 holder the appropriate toll or charge by transmission of information
6 from an electronic device on a motor vehicle to the toll lane, which
7 information is used to charge the account the appropriate toll or
8 charge.] In adopting procedures for the preparation and [mailing] SEND-
9 ING of a notice of liability, the port authority or its duly authorized
10 agent shall adopt guidelines [to ensure] FOR SENDING BY FIRST CLASS MAIL
11 OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION, adequate and
12 timely notice to all electronic toll collection system account holders
13 to inform them when their accounts are delinquent. An owner who is an
14 account holder under the electronic toll collection system shall not be
15 found liable for a violation of this section unless such authority has
16 first sent a notice of delinquency to such account holder and the
17 account holder was in fact delinquent at the time of the violation.

18 i. Nothing in this section shall be construed to limit the liability
19 of an operator of OR THE ACCOUNT HOLDER ASSOCIATED WITH a vehicle for
20 any violation of the toll collection regulations of the port authority.
21 Nothing in this section shall authorize or preclude the port authority
22 from excluding from any of its facilities, in its sole discretion, any
23 or all vehicles found liable under this section as well as other vehi-
24 cles owned or operated by the owner or operator of OR ACCOUNT HOLDER
25 ASSOCIATED WITH such vehicle.

26 j. Notwithstanding any other provision of law, all photographs, micro-
27 photographs, videotape or other recorded images prepared pursuant to
28 this section shall be for the exclusive use of the port authority in the
29 discharge of its duties under this section and shall not be open to the
30 public nor be used in any court in any action or proceeding pending
31 therein unless such action or proceeding relates to the imposition of or
32 indemnification for liability pursuant to this section. The port author-
33 ity or its duly authorized agent shall not sell, distribute or make
34 available in any way, the names and addresses of electronic toll
35 collection system account holders, or any information compiled from
36 transactions with such account holders, without such account holders'
37 consent to any entity that will use such information for any commercial
38 purpose provided that the foregoing restriction shall not be deemed to
39 preclude the exchange of such information between any entities with
40 jurisdiction over and or operating a toll highway bridge and/or tunnel
41 facility.

42 S 24. Section 16-c of chapter 774 of the laws of 1950, relating to
43 agreeing with the state of New Jersey with respect to rules and regu-
44 lations governing traffic on vehicular crossings operated by the port of
45 New York authority, as added by chapter 379 of the laws of 1992, is
46 amended to read as follows:

47 S 16-c. Adjudication of liability. Adjudication of the liability
48 imposed upon an owner by section 16-a of this act for a violation of the
49 toll collection regulations of the port authority occurring within the
50 territorial limits of the state of New York shall be in accordance with
51 the vehicle and traffic law of New York as set forth in sections 235,
52 236, 237, 239, 240, 241, 242, 401, 510 and 1809 of such law, or by such
53 entity having jurisdiction over violations of the toll collection regu-
54 lations of the port authority occurring within the territorial limits of
55 the state of New York, provided that all violations shall be heard and
56 determined in the county in which [the violation is alleged to have

1 occurred, or by consent of both parties,] OBLIGATION FOR PAYMENT OF THE
2 TOLLS OR OTHER CHARGES WAS INCURRED, OR in any county in the state of
3 New York in which the port authority operates or maintains a facility.
4 An owner found liable for a violation of toll collection regulations
5 pursuant to this section shall for a first violation thereof be liable
6 for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN
7 ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED dollars
8 or two times the toll evaded whichever is greater; for a second
9 violation thereof both within eighteen months be liable for THE FULL
10 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a
11 monetary penalty not to exceed [one] TWO hundred dollars or five times
12 the toll evaded whichever is greater; for a third or subsequent
13 violation thereof all within eighteen months be liable for THE FULL
14 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a
15 monetary penalty not to exceed [one] THREE hundred [fifty] dollars or
16 ten times the toll evaded whichever is greater. THE FULL AMOUNT OF THE
17 ASSESSED TOLLS AND OTHER CHARGES AND FEES AND ONE-HALF OF SUCH MONETARY
18 PENALTIES COLLECTED SHALL BE PAID TO THE PORT AUTHORITY; THE REMAINING
19 HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL BE RETAINED OR DISTRIB-
20 UTED BY THE TRIBUNAL OR ENTITY ADJUDICATING THE VIOLATION IN ACCORDANCE
21 WITH EXISTING LAW.

22 S 25. This act shall take effect on the one hundred twentieth day
23 after it shall have become a law, provided that:

24 (a) the amendments to subparagraph (i) of paragraph a of subdivision
25 5-a of section 401 of the vehicle and traffic law made by section
26 fifteen of this act shall not affect the expiration of such paragraph
27 and shall be deemed to expire therewith, when upon such date the
28 provisions of section fifteen-a of this act shall take effect;

29 (b) the amendments to paragraph a of subdivision 5-a of section 401 of
30 the vehicle and traffic law made by section fifteen-a of this act shall
31 not affect the expiration of such paragraph and shall be deemed to
32 expire therewith, when upon such date the provisions of section
33 fifteen-b of this act shall take effect;

34 (c) the amendments to paragraph a of subdivision 5-a of section 401 of
35 the vehicle and traffic law made by section fifteen-b of this act shall
36 not affect the expiration of such paragraph and shall be deemed to
37 expire therewith, when upon such date the provisions of section
38 fifteen-c of this act shall take effect; and

39 (d) the amendments to paragraph a of subdivision 5-a of section 401 of
40 the vehicle and traffic law made by section fifteen-c of this act shall
41 not affect the expiration of such paragraph and shall be deemed to
42 expire therewith, when upon such date the provisions of section
43 fifteen-d of this act shall take effect.

44

PART H

45 Section 1. Section 9 of chapter 67 of the laws of 1992, amending the
46 environmental conservation law relating to pesticide product registra-
47 tion timetables and fees, as amended by section 1 of part S of chapter
48 60 of the laws of 2011, is amended to read as follows:

49 S 9. This act shall take effect April 1, 1992 [provided, however, that
50 section three of this act shall take effect July 1, 1993 and shall
51 expire and be deemed repealed on July 1, 2014].

52 S 2. Section 33-0705 of the environmental conservation law, as amended
53 by section 2 of part S of chapter 60 of the laws of 2011, is amended to
54 read as follows:

1 S 33-0705. Fee for registration.

2 The applicant for registration shall pay a fee as follows:

3 a. [On or before July 1, 2014, six] SIX hundred dollars for each
4 pesticide proposed to be registered, provided that the applicant has
5 submitted to the department proof in the form of a federal income tax
6 return for the previous year showing gross annual sales, for federal
7 income tax purposes, of three million five hundred thousand dollars or
8 less;

9 b. [On or before July 1, 2014, for] FOR all others, six hundred twenty
10 dollars for each pesticide proposed to be registered[;

11 c. After July 1, 2014, fifty dollars for each pesticide proposed to be
12 registered].

13 S 3. Paragraph a of subdivision 1 and subdivision 2 of section 33-1201
14 of the environmental conservation law, as added by chapter 279 of the
15 laws of 1996, are amended to read as follows:

16 a. The department shall [develop] MAINTAIN a pesticide sales [and use
17 computer] data base [in conjunction with Cornell University. The data
18 base shall be maintained at the department].

19 2. The commissioner shall prepare an annual [report summarizing]
20 SUMMARY OF pesticide sales[, quantity of pesticides used, category of
21 applicator and region of application. The commissioner shall not provide
22 the name, address, or any other information which would otherwise iden-
23 tify a commercial or private applicator, or any person who sells or
24 offers for sale restricted use or general use pesticides to a private
25 applicator, or any person who received the services of a commercial
26 applicator. In accordance with article six of the public officers law,
27 proprietary information contained within such record, including price
28 charged per product, shall not be disclosed] BY COUNTY. The [report]
29 ANNUAL SUMMARY shall be [submitted to the governor, the temporary presi-
30 dent of the senate and the speaker of the assembly, and shall be made
31 available to all interested parties. The first report shall be submitted
32 on July first, nineteen hundred ninety-eight and] PUBLISHED ON THE
33 DEPARTMENT'S PUBLIC WEBSITE on OR BEFORE July first [annually thereaft-
34 er].

35 S 4. Subdivision 1 of section 33-1203 of the environmental conserva-
36 tion law, as added by chapter 279 if the laws of 1996, is amended to
37 read as follows:

38 1. [a.] The commissioner shall, upon written request of an interested
39 party, in printed OR ELECTRONIC form [or on a diskette in computerized
40 data base format], provide the information on pesticides submitted to
41 the department pursuant to sections 33-1205 and 33-1207 of this title.
42 Such information shall be provided by county or counties[, or five-digit
43 zip code or codes as selected by the interested party making the written
44 request. The commissioner shall not provide the name, address, or any
45 other information which would otherwise identify a commercial or private
46 applicator, or any person who sells or offers for sale restricted use or
47 general use pesticides to a private applicator, or any person who
48 received the services of a commercial applicator. In accordance with
49 article six of the public officers law, proprietary information
50 contained within such record, including price charged per product, shall
51 not be disclosed. The provisions of this paragraph shall not apply to
52 the provision of pesticide data to the commissioner of health, the
53 health research science board and researchers pursuant to title one-B of
54 article twenty-four of the public health law.

55 b. The department shall, upon request from the department of health,
56 compile pesticide application information by nine-digit zip code and

1 provide the information to the commissioner of health for researchers
2 entitled to receive information pursuant to paragraph (d) of subdivision
3 one of section twenty-four hundred eleven of the public health law
4 provided, however, if the nine-digit zip code cannot be determined, the
5 information shall be compiled by town or city].

6 S 5. Section 33-1205 of the environmental conservation law, as added
7 by chapter 279 of the laws of 1996 and the closing paragraph of para-
8 graph a of subdivision 2 as amended by chapter 260 of the laws of 1997,
9 is amended to read as follows:

10 S 33-1205. Recordkeeping and reporting.

11 1. All commercial applicators shall maintain pesticide use records for
12 each pesticide application containing the following:

- 13 a. EPA registration number;
- 14 b. product name;
- 15 c. quantity of each pesticide used;
- 16 d. date applied;
- 17 e. location of application by address (including five-digit zip code).

18 Such records shall be maintained for a period of not less than three
19 years. [All commercial applicators shall file, at least annually, a
20 report or reports containing such information with the department on
21 computer diskette or in printed form on or before February first for the
22 prior calendar year.] All commercial applicators shall also maintain
23 corresponding records of the dosage rates, methods AND PLACE of applica-
24 tion and target organisms for each pesticide application. These records
25 shall be CREATED IMMEDIATELY AFTER APPLICATION, maintained on an annual
26 basis and retained for a period of not less than [three] FIVE years and
27 shall be available for inspection upon request by the department.

28 2. a. Every person who sells or offers for sale restricted use pesti-
29 cides to private applicators shall issue a record to the private appli-
30 cator of each sale of a restricted use pesticide or a general use pesti-
31 cide used in agricultural crop production to such applicator. Such
32 record of each sale shall include the following:

- 33 1. EPA registration number;
- 34 2. product name of the pesticide purchased;
- 35 3. quantity of the pesticide purchased;
- 36 4. date purchased;
- 37 5. location of intended application by address (including five-digit
38 zip code) or if address is unavailable by town or city (including five-
39 digit zip code) if the location of intended application differs from the
40 billing address that appears on the record.

41 [Every person who sells or offers for sale restricted use pesticides
42 to private applicators shall file, at least annually, a report or
43 reports containing such information with the department on computer
44 diskette or in printed form on or before February first for the prior
45 calendar year. The department shall not use the reports filed pursuant
46 to this paragraph for enforcement purposes.]

47 b. All private applicators shall maintain, at a minimum, records of
48 the restricted pesticides purchased, crop treated by such, method of
49 application, and date of application or applications. This information
50 shall be RECORDED IMMEDIATELY AFTER APPLICATION, maintained on an annual
51 basis and retained for a minimum of three years, and shall be available
52 for inspection upon request by the department.

53 [c. A private applicator shall, upon request, within six months,
54 provide site-specific information relating to pesticide applications to
55 any researcher entitled to receive information pursuant to paragraph (d)
56 of subdivision one of section twenty-four hundred eleven of the public

1 health law, provided, however, such request shall not be granted during
2 planting and harvesting unless at a time and in a manner that is mutual-
3 ly convenient.]

4 3. A. EVERY PERSON WHO SELLS OR OFFERS FOR SALE PESTICIDES SHALL MAIN-
5 TAIN RECORDS OF ALL RETAIL SALES OF SUCH PESTICIDES BY COUNTY. SUCH
6 RECORDS SHALL INCLUDE THE FOLLOWING:

7 1. EPA REGISTRATION NUMBER;

8 2. PRODUCT NAME OF THE PESTICIDE SOLD;

9 3. TOTAL QUANTITY OF THE PESTICIDE SOLD DURING THE CALENDAR YEAR IN
10 EACH COUNTY IN THE STATE.

11 EVERY PERSON WHO SELLS OR OFFERS FOR SALE PESTICIDES SHALL FILE, AT
12 LEAST ANNUALLY, A REPORT OR REPORTS CONTAINING SUCH INFORMATION WITH THE
13 DEPARTMENT IN ELECTRONIC OR PRINTED FORM ON OR BEFORE FEBRUARY FIRST FOR
14 THE PRIOR CALENDAR YEAR.

15 B. THE REQUIREMENTS OF THIS SUBDIVISION ARE NOT APPLICABLE TO: MINIMUM
16 RISK PESTICIDES; GENERAL USE ANTIMICROBIAL PESTICIDES, EXCEPT THOSE THAT
17 ARE SUBJECT TO THE PESTICIDE APPLICATOR CERTIFICATION REQUIREMENTS IN
18 REGULATIONS PROMULGATED BY THE DEPARTMENT; GENERAL USE PESTICIDE
19 PRODUCTS APPLIED TO THE CLOTHING OR SKIN; OR GENERAL USE AEROSOL
20 PRODUCTS WITH A DIRECTED SPRAY IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR
21 LESS, BUT NOT INCLUDING ANY FOGGER PRODUCT OR AEROSOL PRODUCT THAT
22 DISCHARGES TO A WIDE AREA.

23 S 6. Section 33-1207 of the environmental conservation law, as added
24 by chapter 279 of the laws of 1996, is amended to read as follows:

25 S 33-1207. Recordkeeping and reporting by importers and manufacturers.

26 1. Each person manufacturing or compounding a registered [restricted
27 use] pesticide in this state, or importing or causing a registered
28 [restricted use] pesticide to be imported into this state for use,
29 distribution, or storage, shall maintain records of all sales within the
30 state during the preceding year of each [restricted use] pesticide prod-
31 uct which he or she has imported, manufactured or compounded. The record
32 of each [restricted use] pesticide product shall include:

33 a. EPA registration number;

34 b. container size; and

35 c. number of containers sold to New York purchasers.

36 2. Such records shall be maintained for a period of not less than
37 three years. All manufacturers and importers shall file an annual
38 report containing such information with the department [on computer
39 diskette] IN ELECTRONIC or [in] printed form on or before February first
40 for the prior calendar year.

41 3. THE REQUIREMENTS OF THIS SECTION ARE NOT APPLICABLE TO: MINIMUM
42 RISK PESTICIDES; GENERAL USE ANTIMICROBIAL PESTICIDES, EXCEPT THOSE THAT
43 ARE SUBJECT TO THE PESTICIDE APPLICATOR CERTIFICATION REQUIREMENTS IN
44 REGULATIONS PROMULGATED BY THE DEPARTMENT; GENERAL USE PESTICIDE
45 PRODUCTS APPLIED TO THE CLOTHING OR SKIN; OR GENERAL USE AEROSOL
46 PRODUCTS WITH A DIRECTED SPRAY IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR
47 LESS, BUT NOT INCLUDING ANY FOGGER PRODUCT OR AEROSOL PRODUCT THAT
48 DISCHARGES TO A WIDE AREA.

49 S 7. This act shall take effect immediately and shall be deemed to
50 have been in full force and effect on and after April 1, 2014.

51

PART I

52 Section 1. Subdivision 25 of section 11-0103 of the environmental
53 conservation law, as amended by chapter 595 of the laws of 1984, is
54 amended to read as follows:

1 25. "Hunting [accident"] RELATED INCIDENT" means the injury to or
2 death of a person caused by the discharge of a firearm, CROSSBOW or
3 longbow while the person causing such injury or death, or the person
4 injured or killed, is taking or attempting to take game, wildlife or
5 fish.

6 S 2. Paragraphs 1 and 2 of subdivision 3 and subdivision 5 of section
7 11-0701 of the environmental conservation law, as amended by section 1-a
8 of part R of chapter 58 of the laws of 2013, are amended to read as
9 follows:

10 (1) who is between the ages of twelve and sixteen years to hunt wild
11 deer and bear with a longbow OR CROSSBOW during the special archery
12 season and during the regular season, as provided in title 9 of this
13 article, subject to the provisions of section 11-0929 and subdivision 3
14 of section 11-0713 of this article;

15 (2) who is eighteen years of age or older to hunt wild deer and bear
16 with a longbow OR CROSSBOW, as provided in title 9 of this article, in a
17 special [longbow] ARCHERY season; and

18 5. A non-resident bear tag entitles a person who has not been a resi-
19 dent of the state for more than thirty days who also possesses a hunting
20 license to hunt bear during the regular open season therefor or in an
21 open season fixed by regulation pursuant to subdivision eight of section
22 11-0903 of this article. It entitles a non-resident holder who also
23 possesses a hunting license with bowhunting privilege to hunt bear with
24 a longbow OR CROSSBOW during the open bear season. It entitles a non-re-
25 sident holder who also possesses a hunting license with muzzle-loading
26 privilege to hunt bear with a muzzleloader during the open bear season.

27 S 3. Paragraph b of subdivision 6 of section 11-0703 of the environ-
28 mental conservation law, as amended by section 2 of part R of chapter 58
29 of the laws of 2013, is amended to read as follows:

30 b. Except as provided in section 11-0707 and section 11-0709 of this
31 title, no person shall (1) hunt wild deer or bear unless such person
32 holds and is entitled to exercise the privileges of a hunting license,
33 and meets the requirements of this article; (2) hunt wild deer or bear
34 with a longbow OR CROSSBOW in a special [longbow] ARCHERY season unless
35 such person holds and is entitled to exercise the privileges of a hunt-
36 ing license with a bowhunting privilege and meets the requirements of
37 this article; or (3) hunt wild deer or bear with a muzzle-loading
38 firearm in a special muzzle-loading firearm season unless such person is
39 at least fourteen years old and holds a hunting license with a muzzle-
40 loading privilege and meets the requirements of this article.

41 S 4. Subparagraph 4 of paragraph b of subdivision 1 of section 11-0719
42 of the environmental conservation law, as amended by chapter 436 of the
43 laws of 2000, is amended to read as follows:

44 (4) is convicted of an offense involving a violation of subdivisions
45 one and two of section 11-0901 of this article relating to taking of
46 wildlife when the person taking is in or on a motor vehicle while such
47 motor vehicle is on a public highway or an offense involving a violation
48 of subdivision one of section 11-0901 of this article and subparagraph
49 one of paragraph a of subdivision four of section 11-0931 of this arti-
50 cle relating to taking wildlife when the person taking is in or on a
51 motor vehicle and discharging a firearm, CROSSBOW or longbow in such a
52 way that the load, BOLT or arrow passes over a public highway or a part
53 thereof or signs an acknowledgment of any such violation for the purpose
54 of affecting a settlement by civil compromise or by stipulation.

55 S 5. Subdivisions 2 and 3 of section 11-0719 of the environmental
56 conservation law, subdivision 2 as amended by section 27 and subdivision

1 3 as amended by section 28 of part R of chapter 58 of the laws of 2013,
2 are amended to read as follows:

3 2. a. The department may revoke the licenses, tags, bowhunting privi-
4 leges, or muzzle-loading privileges, which authorize the holder to hunt
5 and/or trap wildlife, and may deny the privilege of obtaining such
6 licenses, tags, bowhunting privileges, or muzzle-loading privileges, and
7 may deny the privileges of hunting and/or trapping with or without a
8 license.

9 (1) of any person who, while engaged in hunting, FISHING or trapping,
10 (i) causes death or injury to [another] ANY PERSON by discharging a
11 firearm, CROSSBOW or longbow, or
12 (ii) so negligently discharges a firearm, CROSSBOW or longbow as to
13 endanger the life or safety of another, or
14 (iii) so negligently and wantonly discharges a firearm, CROSSBOW or
15 longbow as to destroy or damage public or private property; or
16 (2) of any agent of the department authorized to issue certificates of
17 qualification in responsible hunting, bowhunting, or trapping practices
18 who improperly issues any such certification to a person whom he OR SHE
19 has not trained, or whom he OR SHE knows has not satisfactorily
20 completed all of the requirements necessary for such certification.

21 b. Action by the department resulting in the revocation of such
22 license or denial of the privilege to hunt and trap as provided in this
23 subdivision shall be only after a hearing held by the department upon
24 notice to the offender, at which proof of facts indicating the violation
25 is established to the satisfaction of the commissioner or of the hearing
26 officer designated by him OR HER and concurred in by the commissioner.
27 Provided that where a person, while hunting, causes death or injury to
28 any person by discharge of a firearm, CROSSBOW or longbow, the commis-
29 sioner may, in his OR HER discretion, suspend such person's license or
30 licenses to hunt and suspend such person's right to hunt without a
31 license for a period of up to sixty days pending a hearing as provided
32 for in this subdivision.

33 c. In case such discharge of a firearm, CROSSBOW or longbow causes
34 death or injury to [another] ANY PERSON, the license or licenses,
35 bowhunting privilege, and muzzle-loading privilege shall be revoked and
36 the ability to obtain any such license and of hunting or of trapping
37 anywhere in the state with or without a license denied, for a period not
38 exceeding ten years, except that no revocation shall be made in cases in
39 which facts established at the hearing indicate to the satisfaction of
40 the commissioner that there was no negligence on the part of the shooter
41 or [bowman] BOWHUNTER. In all other cases the license or licenses,
42 bowhunting privilege, or muzzle-loading privilege, shall be revoked and
43 the privilege of obtaining such license, bowhunting privilege, or
44 muzzle-loading privilege, and of hunting or of trapping anywhere in the
45 state with or without a license denied for a period not exceeding five
46 years. The department may also require that the person causing such
47 death [or], injury, ENDANGERMENT OR PROPERTY DAMAGE successfully
48 complete a department-sponsored course and obtain a certificate of qual-
49 ification in responsible hunting or bowhunting practices before being
50 issued another hunting license.

51 d. Every person injuring himself, herself or another person in a hunt-
52 ing [accident, as such term is defined in subdivision 25 of section
53 11-0103 of this article] RELATED INCIDENT, and the investigating law
54 enforcement officer summoned to or arriving at the scene of such [acci-
55 dent] INCIDENT shall within ten days from the occurrence of such [acci-
56 dent] INCIDENT file a report of the [accident] INCIDENT in writing with

1 the department. Every such person or law enforcement officer shall make
2 such other and additional reports as the department shall require.
3 Failure to report such [accident] INCIDENT as herein provided by the
4 person causing injury or to furnish relevant information required by the
5 department shall be a violation and shall constitute grounds for suspen-
6 sion or revocation of such person's hunting licenses and bowhunting and
7 muzzle-loading privileges and denial of the ability to obtain any such
8 license and of hunting with or without a license following a hearing or
9 opportunity to be heard. In addition, the department may temporarily
10 suspend the license of the person failing to report a hunting [accident]
11 RELATED INCIDENT within the period prescribed herein until such report
12 has been filed. In the case of a non-resident, the failure to report an
13 [accident] INCIDENT as herein provided shall constitute grounds for
14 suspension or revocation of his or her privileges of hunting within this
15 state. The report required by this section shall be made in such form
16 and number as the department may prescribe.

17 3. A hunting license issued to a person who is at least twelve and
18 less than sixteen years of age or a hunting license with bowhunting
19 privilege issued to a person who is between the ages of twelve and
20 sixteen years may be revoked by the department upon proof satisfactory
21 to the department that such person, while under the age of sixteen, has
22 engaged in hunting wildlife with a gun, CROSSBOW or longbow, in circum-
23 stances in which a license and/or bowhunting or muzzle-loading privilege
24 is required, while not accompanied by his or her parent, guardian or
25 other adult as provided in section 11-0929 of this article. ADDI-
26 TIONALLY, THE DEPARTMENT MAY REVOKE THE HUNTING AND/OR BOWHUNTING OR
27 MUZZLE-LOADING PRIVILEGE OF ANY PARENT, GUARDIAN, YOUTH MENTOR OR OTHER
28 ADULT UPON PROOF SATISFACTORY TO THE DEPARTMENT THAT SUCH PERSON ALLOWED
29 THE HOLDER OF A HUNTING LICENSE, BOWHUNTING PRIVILEGE OR MUZZLE-LOADING
30 PRIVILEGE TO HUNT WILDLIFE WITH A GUN, CROSSBOW OR LONGBOW IN VIOLATION
31 OF SECTION 11-0929 OF THIS ARTICLE. If such license or privilege is
32 revoked the department shall fix the period of such revocation, which is
33 not to exceed six years. The department may require that such person
34 successfully complete a department sponsored course and obtain a certifi-
35 cate of qualification in responsible hunting or responsible bowhunting
36 practices before being issued another hunting or bowhunting license.

37 S 6. Paragraphs b and g of subdivision 3, subparagraphs 5, 6 and 8 of
38 paragraph b, subparagraphs 5, 6 and 8 of paragraph c, and subparagraph 1
39 of paragraph d of subdivision 4 of section 11-0901 of the environmental
40 conservation law, paragraph b of subdivision 3 as amended by chapter 911
41 of the laws of 1990, paragraph g of subdivision 3 as amended by chapter
42 34 of the laws of 1979, subparagraph 5 of paragraph b and subparagraph 5
43 of paragraph c of subdivision 4 as amended by chapter 430 of the laws of
44 2000 and subparagraphs 6 and 8 of paragraph b, subparagraphs 6 and 8 of
45 paragraph c and subparagraph 1 of paragraph d of subdivision 4 as
46 amended by chapter 600 of the laws of 1993, are amended to read as
47 follows:

48 b. Wild deer and bear shall not be taken except by gun, CROSSBOW or by
49 long bow. Where an open season, set forth in the table of open seasons
50 in section 11-0907 OF THIS TITLE or otherwise established by law or
51 fixed by regulation, is specified as an open season for taking such game
52 by shotgun or long bow only, or is specified as an open season for
53 taking such game by long bow only, they shall not be taken except as so
54 specified.

55 g. Wildlife shall not be taken [by the use of a cross-bow, by a long
56 bow drawn, pulled, released, or held in a drawn position by any mechan-

1 ical device attached to a portion of the bow other than the bowstring,
2 or] by the use of a device commonly called a spear gun.

3 (5) with a [bow other than a] long bow with a draw weight [in excess]
4 of LESS THAN thirty-five pounds; or

5 (6) with an arrow OR BOLT with an arrowhead that measures less than
6 seven-eighths of an inch at its widest point or that has fewer than two
7 sharp cutting edges; or

8 (8) with an arrow OR BOLT with a barbed broadhead arrowhead.

9 (5) with a [bow other than a] long bow with a draw weight [in excess]
10 of LESS THAN thirty-five pounds; or

11 (6) with an arrow OR BOLT with an arrowhead that measures less than
12 seven-eighths of an inch at its widest point or that has fewer than two
13 sharp cutting edges; or

14 (8) with an arrow OR BOLT with a barbed broadhead arrowhead.

15 (1) such long bow OR CROSSBOW is unstrung, or such a firearm is taken
16 down, or securely fastened in a case, or locked in the trunk of a vehi-
17 cle, or

18 S 7. Subdivisions 11 and 16 of section 11-0901 of the environmental
19 conservation law are REPEALED.

20 S 8. Section 11-0903 of the environmental conservation law is amended
21 by adding a new subdivision 12 to read as follows:

22 12. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS ARTICLE, THE
23 DEPARTMENT IS AUTHORIZED TO ADOPT REGULATIONS WHICH AUTHORIZE THE TAKING
24 OF WILDLIFE BY THE USE OF A CROSSBOW. A SUMMARY OF REGULATIONS ADOPTED
25 PURSUANT TO THIS SUBDIVISION SHALL BE PUBLISHED EACH YEAR IN THE HUNTING
26 SYLLABUS ISSUED PURSUANT TO SECTION 11-0323 OF THIS ARTICLE.

27 S 9. Subdivisions 2 and 4 of section 11-0931 of the environmental
28 conservation law, subdivision 2 as amended by section 7 of part H of
29 chapter 58 of the laws of 2012, subparagraph 3 of paragraph a of subdivi-
30 sion 4 as added by chapter 400 of the laws of 1973 and subparagraph 4
31 of paragraph a of subdivision 4 as added by chapter 67 of the laws of
32 1976, are amended to read as follows:

33 2. No CROSSBOW OR firearm except a pistol or revolver shall be carried
34 or possessed in or on a motor vehicle unless it is UNCOCKED, FOR A
35 CROSSBOW OR unloaded, FOR A FIREARM in both the chamber and the maga-
36 zine, except that a loaded firearm which may be legally used for taking
37 migratory game birds may be carried or possessed in a motorboat while
38 being legally used in hunting migratory game birds, and no person except
39 a law enforcement officer in the performance of his official duties
40 shall, while in or on a motor vehicle, use a jacklight, spotlight or
41 other artificial light upon lands inhabited by deer if he is in
42 possession or is accompanied by a person who is in possession, at the
43 time of such use, of a longbow, crossbow or a firearm of any kind except
44 a pistol or revolver, unless such longbow OR CROSSBOW is unstrung or
45 such firearm OR CROSSBOW is taken down or securely fastened in a case or
46 locked in the trunk of the vehicle. For purposes of this subdivision,
47 motor vehicle shall mean every vehicle or other device operated by any
48 power other than muscle power, and which shall include but not be limit-
49 ed to automobiles, trucks, motorcycles, tractors, trailers and motor-
50 boats, snowmobiles and snowtravelers, whether operated on or off public
51 highways. Notwithstanding the provisions of this subdivision, the
52 department may issue a permit to any person who is non-ambulatory,
53 except with the use of a mechanized aid, to possess a loaded firearm in
54 or on a motor vehicle as defined in this section, subject to such
55 restrictions as the department may deem necessary in the interest of

1 public safety. Nothing in this section permits the possession of a
2 pistol or a revolver contrary to the penal law.

3 4. a. No person shall:

4 (1) discharge a firearm, CROSSBOW or long bow in such a way as will
5 result in the load, BOLT or arrow thereof passing over a public highway
6 or any part thereof;

7 (2) discharge a firearm [or long bow] within five hundred feet OR A
8 CROSSBOW OR LONG BOW WITHIN ONE HUNDRED FIFTY FEET from a dwelling
9 house, farm building or farm structure actually occupied or used, school
10 building, school playground, or occupied PUBLIC STRUCTURE, factory or
11 church;

12 (3) use a firearm, CROSSBOW or a long bow for the hunting of migratory
13 game birds in Larchmont Harbor, specifically those portions bounded by
14 the following points of land:

15 BEGINNING AT A POINT KNOWN AS UMBRELLA POINT ON THE EAST SHORE OF
16 LARCHMONT HARBOR THEN PROCEEDING IN A NORTHERLY DIRECTION TO CEDAR
17 ISLAND; THENCE NORTHWESTERLY TO MONROE INLET; THENCE NORTHEASTERLY TO
18 DELANCY COVE BEING IN THE TOWN OF MAMARONECK; THENCE IN A SOUTHWESTERLY
19 DIRECTION FROM DELANCY COVE TO GREACEN POINT; THENCE RUNNING THE AREA
20 BETWEEN DELANCY COVE AND THE WEST SHORE OF SATANS TOE NORTHEAST; THENCE
21 SOUTHEAST THEN ALONG THE WEST SHORE OF SATANS TOE SOUTHWEST AND THEN
22 SOUTH TO THE SOUTHERLY POINT OF SATANS TOE TO EDGEWATER POINT.

23 (4) Use of a firearm, CROSSBOW or a long bow for the hunting of migra-
24 tory game birds in Udall's Cove, specifically those portions of Little
25 Neck Bay within Nassau and Queens counties lying east of a line running
26 north from the foot of Douglaston Parkway to the shore opposite.

27 b. The prohibitions contained in subparagraph 2 of paragraph a above
28 shall not apply to:

29 (1) The owner or lessee of the dwelling house, or members of his imme-
30 diate family actually residing therein, or a person in his employ, or
31 the guest of the owner or lessee of the dwelling house acting with the
32 consent of said owner or lessee, provided however, that nothing herein
33 shall be deemed to authorize such persons to discharge a firearm [or
34 longbow] within five hundred feet OR A CROSSBOW OR LONG BOW WITHIN ONE
35 HUNDRED FIFTY FEET of any other dwelling house, or a farm building or
36 farm structure actually occupied or used, or a school building or play-
37 ground or occupied PUBLIC STRUCTURE, factory or church;

38 (2) Programs conducted by THE DEPARTMENT, public OR PRIVATE ELEMENTARY
39 OR SECONDARY schools offering instruction and training in the use of
40 firearms, CROSSBOW or long bow;

41 (3) The authorized use of a pistol, rifle or target range regularly
42 operated and maintained by a police department or other law enforcement
43 agency or by any duly organized membership corporation;

44 (4) The discharge of a shotgun over water by a person hunting migrato-
45 ry game birds if no dwelling house, FARM BUILDING OR FARM STRUCTURE
46 ACTUALLY OCCUPIED OR USED, SCHOOL BUILDING, SCHOOL PLAYGROUND, or OCCU-
47 PIED public structure, FACTORY OR CHURCH, livestock or person is situ-
48 ated in the line of discharge less than five hundred feet from the point
49 of discharge.

50 S 10. Paragraph c of subdivision 5 of section 11-0931 of the environ-
51 mental conservation law, as amended by chapter 309 of the laws of 2006,
52 is amended to read as follows:

53 c. In the Northern Zone no person, while engaged in hunting with the
54 aid of a dog or while afield accompanied by a dog, shall possess a rifle
55 larger than .22 caliber using rim-fire ammunition or possess a shotgun
56 loaded with a slug, ball or buckshot, OR POSSESS A CROSSBOW; but this

1 paragraph does not apply to persons, engaged in coyote hunts with dogs
2 during any open season on coyotes established pursuant to the provisions
3 of section 11-0903 OF THIS TITLE.

4 S 11. Paragraph 4 of subdivision a of section 265.20 of the penal law,
5 as amended by chapter 1041 of the laws of 1974, is amended to read as
6 follows:

7 4. Possession of a rifle, shotgun, CROSSBOW or longbow for use while
8 hunting, trapping or fishing, by a person, not a citizen of the United
9 States, carrying a valid license issued pursuant to section 11-0713 of
10 the environmental conservation law.

11 S 12. Paragraph a of subdivision 1 of section 9-103 of the general
12 obligations law, as separately amended by chapters 141 and 286 of the
13 laws of 1984, is amended to read as follows:

14 a. an owner, lessee or occupant of premises, whether or not posted as
15 provided in section 11-2111 of the environmental conservation law, owes
16 no duty: (1) to keep the premises safe for entry, PASSAGE OVER PREMISES
17 or use by others for hunting, fishing, organized gleaning as defined in
18 section seventy-one-y of the agriculture and markets law, canoeing,
19 boating, SWIMMING, trapping, hiking, cross-country skiing, tobogganing,
20 sledding, speleological activities, horseback riding, bicycle riding,
21 hang gliding, motorized vehicle operation for recreational purposes,
22 snowmobile operation, cutting or gathering of wood for non-commercial
23 purposes [or], training of dogs, AND ANY OTHER RECREATIONAL USE; or (2)
24 to give warning of any hazardous condition or use of or structure or
25 activity on such premises to persons entering for such purposes;

26 S 13. Subdivision 3 of section 9-103 of the general obligations law is
27 renumbered subdivision 4 and a new subdivision 3 is added to read as
28 follows:

29 3. FOR THE PURPOSES OF THIS SECTION THE TERM "OCCUPANT" SHALL INCLUDE,
30 BUT NOT BE LIMITED TO, THOSE ORGANIZATIONS, ENTITIES, OR PERSONS WHO
31 INDIVIDUALLY OR COLLECTIVELY DEVELOP AND/OR MAINTAIN TRAILS AND OTHER
32 RECREATIONAL FACILITIES FOR NON-COMMERCIAL USE BY THE PUBLIC.

33 S 14. Section 11-0323 of the environmental conservation law is amended
34 by adding a new subdivision 3 to read as follows:

35 3. NOTWITHSTANDING SUBDIVISION TWO OF SECTION THREE OF THE NEW YORK
36 STATE PRINTING AND PUBLIC DOCUMENTS LAW, THE DEPARTMENT MAY ENTER INTO
37 CONTRACTS WITH ANY RESPONSIVE AND RESPONSIBLE BIDDER TO PROVIDE THE
38 PRINTING SERVICES REQUIRED WITH OR WITHOUT THE USE OF A SUBCONTRACTOR
39 FOR THE PRODUCTION OF THE HUNTING AND FISHING PAMPHLETS AND SYLLABUS SET
40 FORTH IN SUBDIVISIONS ONE AND TWO OF THIS SECTION OR ANY OTHER PUBLICA-
41 TIONS THAT MAY BE ISSUED IN SUPPORT OF THE FISH AND WILDLIFE LAW.

42 S 15. Section 404-s of the vehicle and traffic law, as added by chap-
43 ter 304 of the laws of 2001, is amended by adding three new subdivisions
44 3, 4 and 5 to read as follows:

45 3. A DISTINCTIVE PLATE ISSUED PURSUANT TO THIS SECTION TO A PERSON WHO
46 PURCHASES A LIFETIME LICENSE PURSUANT TO SECTION 11-0702 OF THE ENVIRON-
47 MENTAL CONSERVATION LAW OR A LIFETIME VEHICLE ACCESS PASS, ALSO KNOWN AS
48 A LIFETIME EMPIRE PASSPORT, PURSUANT TO ARTICLE THIRTEEN OF THE PARKS,
49 RECREATION AND HISTORIC PRESERVATION LAW BETWEEN JANUARY FIRST, TWO
50 THOUSAND FOURTEEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND FOURTEEN SHALL
51 BE ISSUED IN THE SAME MANNER AS OTHER NUMBER PLATES, HOWEVER, SUCH LIFE-
52 TIME LICENSE HOLDER SHALL BE EXEMPT FROM THE PAYMENT OF FEES OTHERWISE
53 REQUIRED TO BE PAID PURSUANT TO PARAGRAPHS A AND B OF SUBDIVISION THREE
54 OF SECTION FOUR HUNDRED ONE OF THIS ARTICLE AND THE ANNUAL SERVICE
55 CHARGE REQUIRED BY SUBDIVISION TWO OF THIS SECTION FOR THE INITIAL ISSU-

1 ANCE OF SUCH LICENSE PLATE AND FOR THE NEXT ENSUING REGISTRATION
2 RENEWAL.

3 4. A PERSON WHO POSSESSES A LIFETIME LICENSE PURSUANT TO SECTION
4 11-0702 OF THE ENVIRONMENTAL CONSERVATION LAW OR A LIFETIME VEHICLE
5 ACCESS PASS, ALSO KNOWN AS A LIFETIME EMPIRE PASSPORT, OR A THREE OR
6 FIVE YEAR VEHICLE ACCESS PASS PURSUANT TO ARTICLE THIRTEEN OF THE PARKS,
7 RECREATION AND HISTORIC PRESERVATION LAW SHALL, ON REQUEST BETWEEN APRIL
8 FIRST, TWO THOUSAND FOURTEEN AND MARCH THIRTY-FIRST, TWO THOUSAND
9 FIFTEEN, BE ISSUED A DISTINCTIVE PLATE PURSUANT TO THIS SECTION IN THE
10 SAME MANNER AS OTHER NUMBER PLATES UPON PAYMENT OF A TWENTY-FIVE DOLLAR
11 REGISTRATION FEE PRESCRIBED BY SECTION FOUR HUNDRED ONE OF THIS CHAPTER
12 FOR THE INITIAL LICENSE PLATE AND SHALL BE EXEMPT FROM THE PAYMENT OF
13 FEES OTHERWISE REQUIRED TO BE PAID PURSUANT TO PARAGRAPH B OF SUBDIVI-
14 SION THREE OF SECTION FOUR HUNDRED ONE OF THIS ARTICLE AND THE ANNUAL
15 SERVICE CHARGE REQUIRED BY SUBDIVISION TWO OF THIS SECTION FOR THE
16 INITIAL ISSUANCE OF SUCH LICENSE PLATE AND FOR THE NEXT ENSUING REGIS-
17 TRATION RENEWAL.

18 5. ANY NEW YORK RESIDENT WHO POSSESSES A HUNTING, FISHING OR TRAPPING
19 LICENSE ISSUED PURSUANT TO TITLE SEVEN OF ARTICLE ELEVEN OF THE ENVIRON-
20 MENTAL CONSERVATION LAW OR AN ANNUAL VEHICLE ACCESS PASS, ALSO KNOWN AS
21 AN EMPIRE PASSPORT, PURSUANT TO ARTICLE THIRTEEN OF THE PARKS, RECRE-
22 ATION AND HISTORIC PRESERVATION LAW MAY PURCHASE THE LICENSE PLATE
23 AVAILABLE TO A PERSON WHO PURCHASES A LIFETIME LICENSE OR PASSPORT UPON
24 PAYMENT OF THE REGULAR REGISTRATION FEE PRESCRIBED BY SECTION FOUR
25 HUNDRED ONE OF THIS CHAPTER.

26 S 16. Section 11-0715 of the environmental conservation law is amended
27 by adding a new subdivision 7 to read as follows:

28 7. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION THREE OF THIS
29 SECTION, THE COMMISSIONER MAY OFFER FOR SALE LICENSES, PRIVILEGES AND
30 PERMITS LISTED IN THIS SECTION AT A REDUCED PRICE UP TO TEN DAYS PER
31 YEAR TO ENCOURAGE RESIDENT AND OUT-OF-STATE HUNTERS, TRAPPERS AND
32 ANGLERS TO UTILIZE NEW YORK'S HUNTING, TRAPPING AND FISHING OPPORTU-
33 NITIES. THESE DAYS SHALL BE DESIGNATED IN A MANNER DETERMINED BY THE
34 DEPARTMENT TO BEST PROVIDE PUBLIC NOTICE THEREOF AND TO MAXIMIZE PUBLIC
35 PARTICIPATION THEREIN.

36 S 17. Subdivision 14 of section 11-0305 of the environmental conserva-
37 tion law, as amended by chapter 292 of the laws of 1996 and as renum-
38 bered by section 2 of part F of chapter 82 of the laws of 2002, is
39 amended to read as follows:

40 14. Notwithstanding any inconsistent provision of law, the commission-
41 er may designate no more than [two] EIGHT days in each year that shall
42 be effective in every administrative region of the department, as free
43 sport fishing days during which any person may, without having a sport
44 fishing license and without the payment of any fee, exercise the privi-
45 leges of a holder of a sport fishing license, subject to all of the
46 limitations, restrictions, conditions, laws, rules and regulations
47 applicable to the holder of a sport fishing license. Free sport fishing
48 days shall be designated in a manner determined by the department to
49 best provide public notice thereof and to maximize public participation
50 therein, so as to promote the recreational opportunities afforded by
51 sport fishing.

52 S 18. Subdivision 5 of section 11-0703 of the environmental conserva-
53 tion law is amended by adding a new paragraph e to read as follows:

54 E. ANY THREE OR FIVE-YEAR LICENSE ISSUED PURSUANT TO PARAGRAPH A OR B
55 OF SUBDIVISION THREE OF SECTION 11-0715 SHALL BE EFFECTIVE FOR THE
56 NUMBER OF LICENSE YEARS INDICATED THEREON BEGINNING ON SEPTEMBER FIRST

1 AND ENDING AUGUST THIRTY-FIRST; PROVIDED, HOWEVER, THAT A FISHING
 2 LICENSE SHALL REMAIN EFFECTIVE FOR EITHER THREE OR FIVE YEARS FROM THE
 3 DATE ON WHICH IT WAS ISSUED.

4 S 19. Paragraphs a and b of subdivision 3 of section 11-0715 of the
 5 environmental conservation law, as amended by chapter 276 of the laws of
 6 2013, are amended to read as follows:

7 a. In the case of persons who meet the criteria set forth in paragraph
 8 c of subdivision four of section 11-0703 of this title:

| License | Fee |
|--|-------------------|
| 10 (1) (a) Hunting | \$22.00 |
| 11 (A-1) THREE-YEAR HUNTING | \$60.00 |
| 12 (A-2) FIVE-YEAR HUNTING | \$100.00 |
| 13 (b) Hunting ages fifteen | |
| 14 and under | \$5.00 |
| 15 (2) (A) Fishing | \$25.00 |
| 16 (B) THREE-YEAR FISHING | \$70.00 |
| 17 (C) FIVE-YEAR FISHING | \$115.00 |
| 18 (3)(a) Trapping | \$20.00 |
| 19 (A-1) THREE-YEAR TRAPPING | \$55.00 |
| 20 (A-2) FIVE-YEAR TRAPPING | \$90.00 |
| 21 (b) Trapping ages fifteen and under | \$5.00 |
| 22 (4) (A) Muzzle-loading privilege | \$15.00 |
| 23 (B) THREE-YEAR MUZZLE-LOADING | \$40.00 |
| 24 (C) FIVE-YEAR MUZZLE-LOADING | \$65.00 |
| 25 (5)(a) Bowhunting privilege | \$15.00 |
| 26 (A-1) THREE-YEAR BOWHUNTING PRIVILEGE | \$40.00 |
| 27 (A-2) FIVE-YEAR BOWHUNTING PRIVILEGE | \$65.00 |
| 28 (b) Bowhunting privilege | |
| 29 ages fifteen and under | \$4.00 |
| 30 (6) (A) Turkey permit | \$10.00 |
| 31 (B) THREE-YEAR TURKEY PERMIT | \$25.00 |
| 32 (C) FIVE-YEAR TURKEY PERMIT | \$40.00 |
| 33 (7) Seven-day fishing | [\$13.00] \$12.00 |
| 34 (8) One-day fishing | \$ 5.00 |

35 A THREE OR FIVE-YEAR BOWHUNTING OR MUZZLE-LOADING PRIVILEGE OR TURKEY
 36 PERMIT MAY ONLY BE SOLD TO A PERSON WHO EITHER HAS PURCHASED A HUNTING
 37 LICENSE FOR THE SAME TERM OR POSSESSES A LIFETIME HUNTING LICENSE.

38 b. In the case of a non-resident and persons resident in the state for
 39 less than thirty days:

| License | Fee |
|--|-------------------|
| 41 (1) (a) Hunting | \$100.00 |
| 42 (A-1) THREE-YEAR HUNTING | \$290.00 |
| 43 (A-2) FIVE-YEAR HUNTING | \$480.00 |
| 44 (b) Hunting ages fifteen and under | \$5.00 |
| 45 (2) (A) Fishing | \$50.00 |
| 46 (B) THREE-YEAR FISHING | \$140.00 |
| 47 (C) FIVE-YEAR FISHING | \$230.00 |
| 48 (3) Seven-day fishing | [\$31.00] \$28.00 |
| 49 (4)(a) Trapping | \$275.00 |
| 50 (A-1) THREE-YEAR TRAPPING | \$825.00 |
| 51 (A-2) FIVE-YEAR TRAPPING | \$1,375.00 |
| 52 (b) Trapping ages fifteen and under | \$5.00 |
| 53 (5)(a) Bowhunting privilege | \$30.00 |
| 54 (A-1) THREE-YEAR BOWHUNTING PRIVILEGE | \$80.00 |
| 55 (A-2) FIVE-YEAR BOWHUNTING PRIVILEGE | \$130.00 |
| 56 (b) Bowhunting privilege ages | |

| | | |
|---|-------------------------------|----------|
| 1 | fifteen and under | \$4.00 |
| 2 | (6) (A) Muzzle-loading | \$30.00 |
| 3 | (B) THREE-YEAR MUZZLE-LOADING | \$80.00 |
| 4 | (C) FIVE-YEAR MUZZLE-LOADING | \$130.00 |
| 5 | (7) (A) Turkey permit | \$20.00 |
| 6 | (B) THREE-YEAR TURKEY PERMIT | \$55.00 |
| 7 | (C) FIVE-YEAR TURKEY PERMIT | \$90.00 |
| 8 | (8) One-day fishing | \$10.00 |

9 A THREE OR FIVE-YEAR BOWHUNTING OR MUZZLE-LOADING PRIVILEGE OR TURKEY
10 PERMIT MAY ONLY BE SOLD TO A PERSON WHO EITHER HAS PURCHASED A HUNTING
11 LICENSE FOR THE SAME TERM OR POSSESSES A LIFETIME HUNTING LICENSE.

12 S 20. This act shall take effect April 1, 2014.

13

PART J

14 Section 1. Subdivisions 6, 7 and 8 of section 251-z-5 of the agricul-
15 ture and markets law, subdivisions 6 and 7 as added by chapter 863 of
16 the laws of 1972 and subdivision 8 as added by chapter 665 of the laws
17 of 2005, are amended and a new subdivision 9 is added to read as
18 follows:

19 (6) The applicant or licensee, or an officer, director, partner, hold-
20 er of ten per cent of the voting stock, or any other person exercising
21 any position of management or control has failed to comply with any of
22 the provisions of this chapter or rules and regulations promulgated
23 pursuant thereto; [or]

24 (7) Any person including the applicant or licensee, or an officer,
25 director, partner or any stockholder, exercising any position of manage-
26 ment or control has been convicted of a felony in any court of the
27 United States or any state or territory[.];

28 (8) A retail food store licensed under this article fails to comply
29 with the education requirements set forth in section two hundred fifty-
30 one-z-twelve of this article[.]; OR

31 (9) THE APPLICANT OR LICENSEE HAS FAILED TO PAY ANY PENALTY IMPOSED
32 FOR OR JUDGMENT BASED UPON A VIOLATION OF THE PROVISIONS OF THIS ARTICLE
33 OR RULES AND REGULATIONS PROMULGATED PURSUANT THERETO, WHICH OUTSTANDING
34 PENALTY OR PENALTIES AND/OR JUDGMENT OR JUDGMENTS EQUAL OR EXCEED TWO
35 THOUSAND FOUR HUNDRED DOLLARS. NOTWITHSTANDING, AND IN ADDITION TO THE
36 POWERS CONFERRED IN THIS SECTION, WHEN THE COMMISSIONER FINDS THAT AN
37 APPLICANT OR LICENSEE HAS FAILED TO PAY ANY PENALTY IMPOSED OR JUDGMENT
38 OBTAINED, WHICH OUTSTANDING PENALTY OR PENALTIES AND/OR JUDGMENT OR
39 JUDGMENTS EQUAL OR EXCEED TWO THOUSAND FOUR HUNDRED DOLLARS, THE COMMIS-
40 SIONER MAY DECLINE TO ISSUE OR RENEW A LICENSE, AND, IN LIEU THEREOF,
41 SHALL GRANT A PROVISIONAL LICENSE.

42 (A) A PROVISIONAL LICENSE SHALL EXPIRE SIXTY DAYS FOLLOWING ITS ISSU-
43 ANCE, UNLESS: (I) PRIOR TO ITS EXPIRATION, THE APPLICANT OR LICENSEE
44 PAYS OR ENTERS INTO AN AGREEMENT WITH THE DEPARTMENT TO PAY ALL SAID
45 AMOUNTS DUE, AT WHICH POINT THE PROVISIONAL LICENSE SHALL CONVERT TO A
46 TWO-YEAR LICENSE, COMMENCING AS OF THE DATE OF ISSUANCE OF THE PROVI-
47 SIONAL LICENSE; OR (II) WITHIN THIRTY DAYS OF ITS ISSUANCE, THE APPLI-
48 CANT OR LICENSEE REQUESTS A HEARING, PURSUANT TO RULES AND REGULATIONS
49 THAT THE DEPARTMENT SHALL PROMULGATE.

50 (B) WHERE A HEARING IS REQUESTED, THE PROVISIONAL LICENSE SHALL
51 CONTINUE IN FORCE UNTIL THE DETERMINATION OF SAID HEARING. SHOULD THE
52 APPLICANT PREVAIL, THE PROVISIONAL LICENSE SHALL CONVERT INTO A TWO-YEAR
53 LICENSE, RUNNING FROM THE DATE OF THE ISSUANCE OF THE PROVISIONAL

1 LICENSE. SHOULD THE DEPARTMENT PREVAIL, THE PROVISIONAL LICENSE SHALL
2 TERMINATE AND NO LICENSE SHALL ISSUE.

3 S 2. This act shall take effect immediately.

4 PART K

5 Section 1. Expenditures of moneys appropriated in a chapter of the
6 laws of 2014 to the energy research and development authority, under the
7 research, development and demonstration program, from the special reven-
8 ue funds - other/state operations, miscellaneous special revenue fund -
9 339, energy research and planning account, and special revenue funds -
10 other/aid to localities, miscellaneous special revenue fund - 339, ener-
11 gy research and planning account shall be subject to the provisions of
12 this section. Notwithstanding the provisions of subdivision 4-a of
13 section 18-a of the public service law, all moneys committed or expended
14 shall be reimbursed by assessment against gas corporations and electric
15 corporations as defined in section 2 of the public service law, and the
16 total amount which may be charged to any gas corporation and any elec-
17 tric corporation shall not exceed one cent per one thousand cubic feet
18 of gas sold and .010 cent per kilowatt-hour of electricity sold by such
19 corporations in their intrastate utility operations in calendar year
20 2012. Such amounts shall be excluded from the general assessment
21 provisions of subdivision 2 of section 18-a of the public service law,
22 but shall be billed and paid in the manner set forth in such subdivision
23 and upon receipt shall be paid to the state comptroller for deposit in
24 the state treasury for credit to the miscellaneous special revenue fund.
25 The director of the budget shall not issue a certificate of approval
26 with respect to the commitment and expenditure of moneys hereby appro-
27 priated until the chair of such authority shall have submitted, and the
28 director of the budget shall have approved, a comprehensive financial
29 plan encompassing all moneys available to and all anticipated commit-
30 ments and expenditures by such authority from any source for the oper-
31 ations of such authority. Copies of the approved comprehensive financial
32 plan shall be immediately submitted by the director of the budget to the
33 chairs and secretaries of the legislative fiscal committees.

34 S 2. This act shall take effect immediately and shall be deemed to
35 have been in full force and effect on and after April 1, 2014.

36 PART L

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

41 S 2. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2014.

43 PART M

44 Section 1. Legislative findings. The legislature hereby finds and
45 determines:

46 1. In 2011 and 2012, three storms of enormous magnitude - Hurricane
47 Irene, Tropical Storm Lee and Superstorm Sandy - each battered New York,
48 causing billions of dollars of damage to roads, buildings and other
49 infrastructure. The three storms collectively resulted in millions of

1 residential, business and industrial customers of electric utilities
2 losing electricity for extended periods of time.

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

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

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

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

25 S 2. Section 192-h of the agriculture and markets law, as added by
26 section 2 of part S of chapter 58 of the laws of 2013, is amended to
27 read as follows:

28 S 192-h. Alternate generated power source at retail gasoline outlets.

29 1. Definitions. When used in this section:

30 (a) "Alternate generated power source" means electric generating
31 equipment that is of a capacity that is capable of providing adequate
32 electricity to operate all dispensers, dispensing equipment, life safety
33 systems and payment-acceptance equipment located at a retail outlet and
34 which can operate independent of the local electric utility distribution
35 system and provide electricity during a general power outage or declared
36 energy or fuel supply emergency to operate the systems named herein.

37 (b) "Chain of retail outlets" means a network of subsidiaries or
38 affiliates, under direct or indirect common control, that operate ten or
39 more retail outlets located in a single downstate region; provided,
40 however that this term does not include any franchisor of the brand of
41 motor fuel being sold at such outlet, except if such franchisor owns
42 such outlet.

43 (c) "Controlled access highway" means every highway, street, or road-
44 way in respect to which owners or occupants of abutting lands and other
45 persons have no legal right of access to or from the same except at such
46 points only and in such manner as may be determined by the public
47 authority having jurisdiction over such highway, street, or roadway.

48 (d) "Diesel motor fuel" means any fuel sold in this state and for use
49 in diesel engines which is commercially known or offered for sale as
50 diesel motor fuel.

51 (e) "Dispenser" means a device located at a retail outlet that is used
52 to pump motor fuel from an above-ground or underground storage tank into
53 a motor vehicle.

54 (f) "Downstate region" means each of the following regions of the
55 state:

56 (i) Long Island region: Includes Nassau and Suffolk counties.

- 1 (ii) Lower Mid-Hudson region: Includes Rockland and Westchester coun-
2 ties.
- 3 (iii) New York city region: Includes Bronx, Kings, New York, Queens
4 and Richmond counties.
- 5 (g) "Evacuation route" means those roads designated by each county,
6 AND RECOGNIZED BY THE STATE, that are to be used by motorists in case of
7 a hurricane or other natural disaster.
- 8 (h) "Franchisor" means a person or company that grants a franchise to
9 a franchisee.
- 10 (i) "Gasoline" means any fuel sold in this state for use in internal
11 combustion engines which is commercially known or offered for sale as
12 gasoline, whether or not blended with ethanol or other chemicals.
- 13 (j) "Motor fuel" means any petroleum product, including any gasoline
14 or diesel motor fuel, which is used for the propulsion of motor vehi-
15 cles.
- 16 (k) "Retailer" means any person who owns, operates, or controls a
17 retail outlet that is subject to the requirements of subdivision two of
18 this section.
- 19 (l) "Retail outlet" means a facility, including all land, improvements
20 and associated structures and equipment, that dispenses motor fuel for
21 sale to the general public.
- 22 (M) "STRATEGIC UPSTATE HIGHWAYS" MEANS THE FOLLOWING:
- 23 (I) I-87 BEGINNING AT THE ROCKLAND-ORANGE COUNTY LINE THENCE NORTHERLY
24 PASSING THROUGH OR IN THE VICINITY OF ALBANY TO THE INTERSECTION WITH
25 I-90, THE FOREGOING ROUTE BEING A PORTION OF THE NEW YORK STATE THRUWAY;
26 THENCE CONTINUING NORTHERLY TO THE NEW YORK-CANADA BORDER;
- 27 (II) I-90 BEGINNING AT I-87 IN THE VICINITY OF ALBANY THENCE WESTERLY
28 PASSING THROUGH OR IN THE VICINITY OF SCHENECTADY, UTICA, SYRACUSE,
29 ROCHESTER, AND BUFFALO; THENCE CONTINUING SOUTHWESTERLY TO THE NEW
30 YORK-PENNSYLVANIA BORDER, THE FOREGOING ROUTE BEING A PORTION OF THE NEW
31 YORK STATE THRUWAY;
- 32 (III) THE BERKSHIRE SECTION OF THE NEW YORK STATE THRUWAY BEGINNING AT
33 I-87 THENCE EASTERLY TO THE INTERSECTION WITH I-90 AND CONTINUING ON
34 I-90 TO THE NEW YORK-MASSACHUSETTS BORDER;
- 35 (IV) I-84 BEGINNING AT THE NEW YORK-NEW JERSEY BORDER THENCE EASTERLY
36 PASSING THROUGH OR IN THE VICINITY OF NEWBURGH, THENCE CONTINUING EAST-
37 ERLY AND SOUTHEASTERLY TO THE NEW YORK-CONNECTICUT BORDER;
- 38 (V) I-88 BEGINNING AT I-81 IN THE VICINITY OF BINGHAMTON THENCE
39 NORTHEASTERLY TO I-90 IN THE VICINITY OF SCHENECTADY;
- 40 (VI) I-86/STATE ROUTE 17 BEGINNING AT I-87 IN THE VICINITY OF WOODBURY
41 THENCE WESTERLY AND NORTHWESTERLY PASSING THROUGH OR IN THE VICINITY OF
42 BINGHAMTON, ELMIRA, AND JAMESTOWN, CONTINUING TO THE NEW YORK-PENNSYLVANIA
43 BORDER;
- 44 (VII) I-81 BEGINNING AT THE NEW YORK-PENNSYLVANIA BORDER THENCE NORTH-
45 ERLY PASSING THROUGH OR IN THE VICINITY OF SYRACUSE AND WATERTOWN,
46 CONTINUING TO THE NEW YORK-CANADA BORDER;
- 47 (VIII) I-390 BEGINNING AT I-86 IN THE VICINITY OF AVOCA THENCE
48 NORTHWESTERLY AND NORTHERLY IN I-490 IN THE VICINITY OF ROCHESTER; AND
- 49 (IX) I-190 BEGINNING AT I-90 IN THE VICINITY OF BUFFALO, THENCE
50 WESTERLY, NORTHWESTERLY, AND NORTHERLY THROUGH BUFFALO, ACROSS GRAND
51 ISLAND, THE FOREGOING ROUTE BEING A PORTION OF THE NEW YORK STATE THRU-
52 WAY, AND THENCE GENERALLY WESTERLY TO THE UNITED STATES-CANADA BORDER IN
53 THE VICINITY OF LEWISTON.
- 54 (N) "UPSTATE REGION" MEANS ANY COUNTY OF THE STATE THAT IS NOT PART OF
55 THE DOWNSTATE REGION.

1 2. Prewiring and transfer switch. (a) Retail outlets in the downstate
2 region shall be prewired with an appropriate transfer switch for using
3 an alternate generated power source at such retail outlets as follows:

4 (i) each retail outlet in operation on the effective date of this
5 section that is located within one-half mile by road measurement from an
6 exit road on a controlled access highway or from an evacuation route
7 shall be prewired by no later than April first, two thousand fourteen;

8 (ii) each retail outlet beginning operation after the effective date
9 of this section and before April first, two thousand fourteen that is
10 located within one-half mile by road measurement from an exit road on a
11 controlled access highway or from an evacuation route shall be prewired
12 by no later than April first, two thousand fifteen;

13 (iii) each retail outlet that is located within one-half mile by road
14 measurement from an evacuation route that is designated as such after
15 the effective date of this section or within one-half mile by road meas-
16 urement from an exit road that is established after the effective date
17 of this section shall be prewired within one year of such designation or
18 establishment provided that funding is available at such time for the
19 program established under subdivision twenty of section eighteen hundred
20 fifty-four of the public authorities law; and

21 (iv) thirty percent of all retail outlets that are part of a chain of
22 retail outlets, exclusive of those included in subparagraphs (i), (ii)
23 and (iii) of this paragraph, shall be prewired by no later than August
24 first, two thousand fifteen, provided, however, in the case of an exist-
25 ing retail outlet that becomes part of a chain of retail outlets after
26 the effective date of this section and that has been designated by the
27 chain as an outlet comprising such thirty percent, by no later than
28 August first, two thousand fifteen or one year after becoming part of
29 such chain, whichever is later, and provided further, in the case of a
30 retail outlet that is part of a chain of retail outlets, is part of such
31 thirty percent and is subject to paragraph (b) of this subdivision as
32 required in paragraph (b) of this subdivision.

33 (A-1) RETAIL OUTLETS IN THE UPSTATE REGION SHALL BE PREWIRED WITH AN
34 APPROPRIATE TRANSFER SWITCH FOR USING AN ALTERNATE GENERATED POWER
35 SOURCE AT SUCH RETAIL OUTLETS AS FOLLOWS:

36 (I) EACH RETAIL OUTLET IN OPERATION ON THE EFFECTIVE DATE OF THIS
37 PARAGRAPH THAT IS LOCATED ON A STRATEGIC UPSTATE HIGHWAY OR WITHIN ONE-
38 HALF MILE BY ROAD MEASUREMENT FROM AN EXIT ROAD ON A STRATEGIC UPSTATE
39 HIGHWAY OR FROM AN EVACUATION ROUTE SHALL BE PREWIRED BY NO LATER THAN
40 APRIL FIRST, TWO THOUSAND FIFTEEN;

41 (II) EACH RETAIL OUTLET BEGINNING OPERATION AFTER THE EFFECTIVE DATE
42 OF THIS PARAGRAPH AND BEFORE APRIL FIRST, TWO THOUSAND FIFTEEN THAT IS
43 LOCATED ON A STRATEGIC UPSTATE HIGHWAY OR WITHIN ONE-HALF MILE BY ROAD
44 MEASUREMENT FROM AN EXIT ROAD ON A STRATEGIC UPSTATE HIGHWAY OR FROM AN
45 EVACUATION ROUTE SHALL BE PREWIRED BY NO LATER THAN APRIL FIRST, TWO
46 THOUSAND SIXTEEN; AND

47 (III) EACH RETAIL OUTLET THAT IS LOCATED WITHIN ONE-HALF MILE BY ROAD
48 MEASUREMENT FROM AN EVACUATION ROUTE THAT IS DESIGNATED AS SUCH AFTER
49 THE EFFECTIVE DATE OF THIS SECTION OR ON A STRATEGIC UPSTATE HIGHWAY OR
50 WITHIN ONE-HALF MILE BY ROAD MEASUREMENT FROM AN EXIT ROAD ON A STRATE-
51 GIC UPSTATE HIGHWAY THAT IS ESTABLISHED AFTER THE EFFECTIVE DATE OF THIS
52 PARAGRAPH SHALL BE PREWIRED WITHIN ONE YEAR OF SUCH DESIGNATION OR
53 ESTABLISHMENT PROVIDED THAT FUNDING IS AVAILABLE AT SUCH TIME FOR THE
54 PROGRAM ESTABLISHED UNDER SUBDIVISION TWENTY OF SECTION EIGHTEEN HUNDRED
55 FIFTY-FOUR OF THE PUBLIC AUTHORITIES LAW.

1 (b) Each retail outlet for which a building permit is issued on or
2 after April first, two thousand fourteen for new construction or for
3 substantial demolition and reconstruction, shall be prewired with an
4 appropriate transfer switch for using an alternate generated power
5 source.

6 (c) Such transfer switch and all associated electrical wiring shall be
7 installed, operated, and maintained in compliance with all applicable
8 provisions of the New York state uniform fire prevention and building
9 code or any applicable local building code or standard. Installation of
10 appropriate wiring and transfer switches shall be performed by a
11 licensed electrical contractor.

12 (d) Each retailer shall keep on file at the retail outlet a written
13 statement in a form approved by the department and containing an attes-
14 tation by a licensed electrician that the wiring and transfer switch
15 were installed in accordance with the manufacturer's specifications. In
16 addition, each such retailer shall maintain the wiring and transfer
17 switch in accordance with the manufacturer's specifications.

18 (e) Each retail outlet IN THE DOWNSTATE REGION in operation on the
19 effective date of this section that sold less than seventy-five thousand
20 gallons of motor fuel per month on average for the period they were in
21 operation during the twelve months prior to the effective date shall be
22 exempt from the requirements of this subdivision.

23 3. Emergency deployment. In the event that a declaration of an energy
24 or fuel supply emergency issued by the governor, the county executive of
25 a county [in the downstate region] CONTAINING RETAIL OUTLETS SUBJECT TO
26 THE PROVISIONS OF THIS SECTION or the mayor of a city with a population
27 in excess of one million inhabitants is in effect, a retailer of a
28 retail outlet within any such county or city for which such declaration
29 was issued shall deploy and install an alternate generated power source
30 as follows:

31 (a) For a retail outlet subject to the requirements of: (i) PARAGRAPH
32 (A-1) OF SUBDIVISION TWO OF THIS SECTION OR subparagraphs (i), (ii) or
33 (iii) of paragraph (a) of subdivision two of this section or (ii) para-
34 graph (b) of subdivision two of this section that is located in the
35 downstate region and that is located within one-half mile by road meas-
36 urement from an exit road on a controlled access highway or from an
37 evacuation route, within twenty-four hours of such declaration, if such
38 outlet is without power at the time of such declaration. Provided,
39 however, if any such outlet loses power following such declaration and
40 while the declaration is still in effect, then the alternate generated
41 power source shall be deployed and installed within twenty-four hours of
42 such loss of power.

43 (b) For a retail outlet prewired pursuant to the requirements of
44 subparagraph (iv) of paragraph (a) of subdivision two of this section,
45 within forty-eight hours of such declaration, if such outlet is without
46 power at the time of such declaration. Provided, however, if any such
47 outlet loses power following such declaration and while the declaration
48 is still in effect, then the alternate generated power source shall be
49 deployed and installed within forty-eight hours of the loss of power.

50 3-a. Declaration of energy or fuel supply emergency. Upon issuance of
51 a declaration of an energy or fuel supply emergency pursuant to this
52 subdivision, a county executive of a county [in the downstate region]
53 WHOSE RETAIL OUTLETS ARE SUBJECT TO THE PROVISIONS OF THIS SECTION or
54 mayor of a city with a population in excess of one million inhabitants
55 who declared such emergency shall promptly notify the president of the
56 New York state energy research and development authority, the commis-

1 sioner of homeland security and emergency services, and impacted resi-
2 dents using such means as are practicable and efficient.

3 4. Plan for alternate generated power source. Each retailer subject to
4 subdivision three of this section shall by the date of the installation
5 of the prewiring and transfer switch required under subdivision two of
6 this section have in place at each applicable retail outlet documenta-
7 tion in a form approved by the department demonstrating a plan to deploy
8 and install an alternate generated power source located at such retail
9 outlet as required under subdivision three of this section. Such plan
10 shall take one of the following forms:

11 (a) a receipt or other documentation showing ownership of such power
12 source;

13 (b) for a retailer subject to paragraph (a) of subdivision three of
14 this section, documentation attesting to participation in the program
15 established under subdivision twenty-one of section eighteen hundred
16 fifty-four of the public authorities law; or

17 (c) a contract with a supplier of such power source providing for
18 deployment and installation of such power source in compliance with the
19 requirements of this section, or other documentation demonstrating the
20 retailer's ability to comply with the requirements of this section,
21 which may include the generator deployment and installation plan of a
22 chain of retail outlets.

23 5. Inspection; recordkeeping; reporting. The commissioner or the
24 commissioner's designee shall be authorized to enter during regular
25 business hours upon a retail outlet subject to the requirements of
26 subdivision two of this section for the purpose of determining compli-
27 ance with the provisions of this section and any rules or regulations
28 promulgated hereunder. All documents required pursuant to subdivisions
29 two and four of this section shall be maintained at the applicable
30 retail outlet and made available to the commissioner or the commis-
31 sioner's designee upon request. In addition, each retailer of a retail
32 outlet, except for retail outlets granted exemptions under paragraph (e)
33 of subdivision two of this section, shall provide to the department by
34 [April first, two thousand fourteen] THE DATE OF THE INSTALLATION OF THE
35 PREWIRING AND TRANSFER SWITCH REQUIRED UNDER SUBDIVISION TWO OF THIS
36 SECTION and every two years thereafter written documentation in a form
37 approved by the department certifying that such retail outlet is in
38 compliance with the requirements of this section, and any other require-
39 ment 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 or to which subparagraph (ii) or (iii) of paragraph
42 (a), SUBPARAGRAPH (III) OF PARAGRAPH (A-1) or paragraph (b) of subdivi-
43 sion two applies, such written documentation shall be provided to the
44 department within ten days after the date of installation of the prewir-
45 ing and transfer switch required to be installed under subdivision two
46 of this section and every two years thereafter.

47 6. Rules and regulations; notification of applicability. The commis-
48 sioner shall have the authority, with the assistance of the commissioner
49 of transportation, the commissioner of homeland security and emergency
50 services, the president of the New York state energy research and devel-
51 opment authority, the secretary of state and the chair of the public
52 service commission, to promulgate such rules and regulations as the
53 commissioner shall deem necessary to effectuate the purposes of this
54 section. The commissioner shall by June first, two thousand thirteen:
55 (a) notify by first class mail all existing retail outlets that appear
56 to meet the criteria specified in subdivision two of this section of the

1 requirements of this section and include with such notification any
2 other information deemed necessary by the commissioner, including infor-
3 mation regarding applicability criteria, compliance measures and poten-
4 tial grant assistance; (b) provide a list of all such retail outlets to
5 the governor, the temporary president of the senate and the speaker of
6 the assembly; and (c) post such list on the department's website,
7 PROVIDED HOWEVER THAT FOR RETAIL OUTLETS SUBJECT TO PARAGRAPH (A-1) OF
8 SUBDIVISION TWO OF THIS SECTION, SUCH ACTIONS SHALL OCCUR BY JUNE FIRST,
9 TWO THOUSAND FOURTEEN. If approval of federal mitigation funds or other
10 approved resources for the program established under subdivision twenty
11 of section eighteen hundred fifty-four of the public authorities law
12 occurs after June first, two thousand thirteen, the commissioner shall
13 provide additional notification of such approval within thirty days. Any
14 retailer of a retail outlet specified on such list shall be subject to
15 the requirements of this section unless he or she provides written
16 documentation to the department by August first, two thousand thirteen
17 proving that such outlet does not qualify, or is eligible for an
18 exemption pursuant to paragraph (e) of subdivision two of this section;
19 PROVIDED HOWEVER THAT FOR RETAIL OUTLETS SUBJECT TO PARAGRAPH (A-1) OF
20 SUBDIVISION TWO OF THIS SECTION, ANY RETAILER OF A RETAIL OUTLET SPECI-
21 FIED ON SUCH LIST SHALL BE SUBJECT TO THE REQUIREMENTS OF THIS SECTION
22 UNLESS HE OR SHE PROVIDES WRITTEN DOCUMENTATION TO THE DEPARTMENT BY
23 AUGUST FIRST, TWO THOUSAND FOURTEEN PROVING THAT SUCH OUTLET DOES NOT
24 QUALIFY. The commissioner shall update such list every five years ther-
25 eafter, OR MORE FREQUENTLY AS THE COMMISSIONER DEEMS NECESSARY, and
26 notify all new retail outlets that become subject to the requirements of
27 this section; provided, however, that compliance with the requirements
28 of this section is not conditioned on such notification.

29 7. Violations and penalties. Any retailer who violates any provision
30 of this section, or any rule or regulation promulgated hereunder, shall
31 be liable to the people of the state for a civil penalty of up to one
32 thousand five hundred dollars per day for every such violation, to be
33 assessed by the commissioner, after a hearing or opportunity to be heard
34 upon due notice and with the right to representation by counsel. In
35 determining the amount of civil penalty, the commissioner shall take
36 into consideration mitigating factors, such as the availability of gaso-
37 line at the retail outlet, provided that the retailer did not refuse
38 such delivery, and the extent to which the retailer's action or inaction
39 contributed to the violation. Such penalty may be recovered in an action
40 brought by the attorney general at the request and in the name of the
41 commissioner in any court of competent jurisdiction. Such civil penalty
42 may be released or compromised by the commissioner before the matter has
43 been referred to the attorney general. Additionally, after such hearing
44 and a finding that such retailer has violated the provisions of this
45 section, or of any rule or regulation promulgated thereunder, the
46 commissioner may issue and cause to be served upon such person an order
47 enjoining such person from violating such provisions and taking all
48 necessary actions for such person to come into compliance with such
49 provisions. Any such order of the commissioner may be enforced in an
50 action brought by the attorney general at the request and in the name of
51 the commissioner in any court of competent jurisdiction.

52 Notwithstanding the foregoing, such retailer shall not be in violation
53 of subdivision three of this section if he or she is unable to deploy,
54 install or operate an alternate generated power source because of uncon-
55 trollable circumstances, including but not limited to, restrictions
56 imposed by public safety officers to address an emergency situation or

1 that such retail station is made unsafe or unable to operate due to acts
2 of God, fires, floods, explosions or the safety of personnel needed to
3 operate such retail outlet. Additionally, such retailer shall not be in
4 violation of subdivision three of this section if he or she is a partic-
5 ipant in the program established under subdivision twenty-one of section
6 eighteen hundred fifty-four of the public authorities law and a genera-
7 tor is not provided to the retailer due to the prioritization allowed
8 under such subdivision or through no fault of the retailer.

9 8. This section shall not be construed to require any retailer to
10 maintain set business hours in the event of an energy or fuel supply
11 emergency.

12 9. The provisions of this section shall supersede all local laws or
13 ordinances in the downstate region AND IN COUNTIES IN THE UPSTATE REGION
14 WHOSE RETAIL OUTLETS ARE SUBJECT TO THE PROVISIONS OF THIS SECTION
15 relating to the installation and deployment of an alternate generated
16 power source or any related electrical or other equipment at any retail
17 outlet.

18 10. The requirements of this section shall be contingent on the
19 approval of federal mitigation funds or other approved resources for the
20 program established under subdivision twenty of section eighteen hundred
21 fifty-four of the public authorities law. In the event such approval
22 does not occur as of June first, two thousand thirteen, all deadlines
23 with a date of April first, two thousand fourteen shall be delayed by
24 the amount of time such approval is delayed past June first, two thou-
25 sand thirteen.

26 S 3. Subdivisions 20 and 21 of section 1854 of the public authorities
27 law, as added by section 3 of part S of chapter 58 of the laws of 2013,
28 are amended to read as follows:

29 20. To administer a program, using funds provided for such purpose, to
30 provide a grant based on standards and guidelines established by the
31 authority for costs as follows:

32 (a) for each retail outlet that is in operation before April first,
33 two thousand fourteen and is subject to the requirements of paragraph
34 (a) of subdivision three of section one hundred ninety-two-h of the
35 agriculture and markets law AND FOR EACH RETAIL OUTLET THAT IS IN OPERA-
36 TION BEFORE APRIL FIRST, TWO THOUSAND FIFTEEN AND IS SUBJECT TO THE
37 REQUIREMENTS OF PARAGRAPH (A-1) OF SUBDIVISION TWO OF SECTION ONE
38 HUNDRED NINETY-TWO-H OF THE AGRICULTURE AND MARKETS LAW:

39 (i) no greater than ten thousand dollars required to prewire such
40 retail outlet with an appropriate transfer switch for using an alternate
41 generated power source as defined in section one hundred ninety-two-h of
42 the agriculture and markets law; or

43 (ii) no greater than thirteen thousand dollars required to prewire
44 such retail outlet with an appropriate transfer switch for using an
45 alternate generated power source as defined in section one hundred nine-
46 ty-two-h of the agriculture and markets law and purchase such power
47 source to be permanently affixed at the site.

48 (b) for each retail outlet that is in operation before April first,
49 two thousand fourteen and is subject to the requirements of paragraph
50 (b) of subdivision three of section one hundred ninety-two-h of the
51 agriculture and markets law, no greater than ten thousand dollars
52 required to: (i) prewire an existing retail outlet with an appropriate
53 transfer switch for using an alternate generated power source as defined
54 in section one hundred ninety-two-h of the agriculture and markets law;
55 and/or (ii) purchase such power source to be permanently affixed at the
56 site.

1 (c) to the extent funds are available, for retail outlets that become
2 operational on or after April first, two thousand fourteen, or to which
3 subdivision two of section one hundred ninety-two-h of the agriculture
4 and markets law becomes applicable after the effective date of this
5 subdivision, which grants shall otherwise be subject to the same
6 amounts, purposes and restrictions as paragraphs (a) and (b) of this
7 subdivision.

8 The authority may offer any funds provided for such purpose and not
9 expended to retail outlets that are not required to comply with the
10 requirements of subdivision two of section one hundred ninety-two-h of
11 the agriculture and markets law but that seek to participate in such
12 program.

13 21. To administer a program to establish a pool of generators for
14 retail outlets as defined in section one hundred ninety-two-h of the
15 agriculture and markets law. The authority may enter into or facilitate
16 contracts, lease agreements and any other instruments subject to the
17 provisions of law, with companies providing generators and generator
18 services to provide for such pool and the deployment and installation of
19 generators in the pool. Retail outlets that elect to participate in the
20 program and are subject to the requirements of PARAGRAPH (A-1) OF SUBDI-
21 VISION TWO OR paragraph (a) of subdivision three of section one hundred
22 ninety-two-h of the agriculture and markets law shall be required only
23 to pay the actual cost of generator rental, deployment and installation
24 in the event that emergency deployment is required, provided, that a
25 participant must abide by the terms of any contract or written agreement
26 covering the rental, deployment and installation of such generator. In
27 the event that an insufficient number of generators is available to meet
28 required emergency deployment, the authority in consultation with the
29 commissioner of homeland security and emergency services shall prior-
30 itize such retail outlets as are most essential to public safety and
31 well-being during the energy or fuel supply emergency. When generators
32 from such program are deployed, the authority shall provide public
33 notice on its website, to the media and through other means practicable
34 of those retail outlets where generators are deployed.

35 S 4. This act shall take effect immediately.

36 PART N

37 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
38 executive law relating to permitting the secretary of state to provide
39 special handling for all documents filed or issued by the division of
40 corporations and to permit additional levels of such expedited service,
41 as amended by section 1 of part P of chapter 58 of the laws of 2013, is
42 amended to read as follows:

43 S 2. This act shall take effect immediately, provided however, that
44 section one of this act shall be deemed to have been in full force and
45 effect on and after April 1, 2003 and shall expire March 31, [2014]
46 2015.

47 S 2. This act shall take effect immediately and shall be deemed to
48 have been in full force and effect on and after March 31, 2014.

49 PART O

50 Section 1. Paragraph (g) of section 104 of the business corporation
51 law, as amended by chapter 375 of the laws of 1998, is amended to read
52 as follows:

1 (g) The department shall make, certify and transmit ELECTRONICALLY a
 2 copy of each such instrument to the clerk of the county in which the
 3 office of the domestic or foreign corporation is or is to be located.
 4 The county clerk shall file and index such copy.

5 S 2. Paragraph (g) of section 104 of the not-for-profit corporation
 6 law, as amended by chapter 375 of the laws of 1998, is amended to read
 7 as follows:

8 (g) The department shall make, certify and transmit ELECTRONICALLY a
 9 copy of each such instrument to the clerk of the county in which the
 10 office of the domestic or foreign corporation is or is to be located.
 11 The county clerk shall file and index such copy.

12 S 3. This act shall take effect immediately.

13 PART P

14 Section 1. Subdivision 2 of section 160-f of the executive law, as
 15 amended by chapter 397 of the laws of 1991, is amended to read as
 16 follows:

17 2. Notwithstanding any other law, the department may transmit an annu-
 18 al registry fee [of not more than twenty-five dollars] AS SET BY THE
 19 FEDERAL APPRAISAL SUBCOMMITTEE IN ACCORDANCE WITH 12 U.S.C. 3338
 20 (A)(4)(A) from such individuals who perform or seek to perform
 21 appraisals in federally related transactions and to transmit a roster of
 22 such individuals to the Appraisal Subcommittee of the Federal Financial
 23 Institutions Examination Council as required by Title XI of the Finan-
 24 cial Institutions Reform, Recovery, and Enforcement Act of 1989.

25 S 2. This act shall take effect immediately.

26 PART Q

27 Section 1. Notwithstanding any other law, rule or regulation to the
 28 contrary, expenses of the department of health public service education
 29 program incurred pursuant to appropriations from the cable television
 30 account of the state miscellaneous special revenue funds shall be deemed
 31 expenses of the department of public service.

32 S 2. This act shall take effect immediately and shall be deemed to
 33 have been in full force and effect on and after April 1, 2014.

34 PART R

35 Section 1. Section 5 of the public service law is amended by adding a
 36 new subdivision 7 to read as follows:

37 7. (A) THE COMMISSION MAY, AFTER NOTICE AND HEARING, FORBEAR FROM
 38 APPLYING THE PROVISIONS OF SUBDIVISION TWO OF SECTION NINETY-ONE AND
 39 SECTION NINETY-TWO, NINETY-NINE, ONE HUNDRED, ONE HUNDRED ONE OR ONE
 40 HUNDRED ONE-A OF THIS CHAPTER TO A TELEPHONE CORPORATION, TELEPHONE
 41 SERVICE, OR CLASS OF TELEPHONE CORPORATIONS OR TELEPHONE SERVICES AS
 42 DEFINED IN COMMISSION REGULATIONS, IN ANY GEOGRAPHIC MARKET UPON A
 43 DETERMINATION THAT:

44 (I) APPLICATION OF A PROVISION IS NOT NECESSARY TO ENSURE JUST AND
 45 REASONABLE RATES AND CHARGES AND RATES THAT ARE NOT UNJUSTLY OR UNREA-
 46 SONABLY DISCRIMINATORY;

47 (II) APPLICATION OF A PROVISION IS NOT NECESSARY FOR PROTECTION OF
 48 CONSUMERS; AND

1 (III) FORBEARANCE FROM APPLYING A PROVISION IS CONSISTENT WITH THE
2 PUBLIC INTEREST, INCLUDING, BUT NOT LIMITED TO, PROMOTION OF COMPETITIVE
3 MARKET CONDITIONS AND COMPETITION AMONG PROVIDERS OF TELEPHONE SERVICES.

4 (B) ANY TELEPHONE CORPORATION OR SUCH CLASS OF TELEPHONE CORPORATIONS
5 MAY PETITION THE COMMISSION FOR EXERCISE OF THE AUTHORITY GRANTED UNDER
6 THIS SUBDIVISION.

7 S 2. Paragraph (d) of subdivision 5 of section 52 of the public
8 service law, as added by chapter 186 of the laws of 1995, is amended to
9 read as follows:

10 (d) when such determination follows a customer complaint regarding a
11 shared meter condition or a utility discovery of a shared meter condi-
12 tion that is not in response to an owner's request for a utility
13 inspection for a shared meter condition, with respect to utility service
14 billed after December first, nineteen hundred ninety-six, the utility
15 shall comply with the provisions of paragraphs (a), (b) and (c) of this
16 subdivision, and further bill the owner and refund to the shared meter
17 customer an estimated amount of THE charges for [twelve months] TWENTY-
18 FIVE PERCENT of all service measured by the shared meter FOR TWELVE
19 MONTHS; provided, however, that this paragraph shall not apply to a
20 shared meter condition if service measured through the shared meter is
21 minimal under commission rules adopted pursuant to subdivision eight of
22 this section[. An owner so billed] OR IN THE EVENT AN OWNER, PURSUANT TO
23 SUBPARAGRAPH (I) OF PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, IS
24 EXCUSED FROM CORRECTING THE SHARED METER CONDITION BY A LEGAL PROHIBI-
25 TION OR EXORBITANT COST AS DEFINED BY COMMISSION RULES ADOPTED PURSUANT
26 TO SUBDIVISION EIGHT OF THIS SECTION. A SHARED METER CUSTOMER may peti-
27 tion the commission or its designee for a determination that the amount
28 of such [bill is excessive] ASSESSMENT IS UNSATISFACTORY and that such
29 bill and refund be adjusted [accordingly]; provided, however, [neither
30 the adjusted bill nor] THAT the adjusted refund shall [be less than
31 twenty-five percent of] NOT EXCEED the total amount of the original
32 bill. [The commission is authorized to make such a determination and
33 adjustment if it finds that a bill and refund of twelve months' charges
34 is unduly burdensome and unfair.] In making such determination the
35 commission or its designee shall consider the total amount of the bill
36 and refund in relation to the shared area charges over such twelve month
37 period and any other equitable factors established by the commission;
38 and

39 S 3. Section 221 of the public service law, as added by chapter 83 of
40 the laws of 1995, is amended to read as follows:

41 S 221. Certificate of confirmation. 1. Except as provided in this
42 section, no person shall exercise a franchise, and no such franchise
43 shall be effective, [until the commission has confirmed such franchise.
44 A person wishing to exercise a franchise shall file with the commission
45 an application for a certificate of confirmation in such form and
46 containing such information and supportive documentation as the commis-
47 sion may require. The application shall be accompanied by proof of
48 service thereof upon the franchisor and by such fee as the commission
49 may set] UNLESS A COPY OF SUCH FRANCHISE HAS BEEN APPROVED BY THE MUNI-
50 CIPALITY, AND PROPERLY FILED WITH THE COMMISSION WITHIN THIRTY DAYS OF
51 MUNICIPAL APPROVAL. SUCH FRANCHISE SHALL BE SUBJECT, AT A MINIMUM, TO
52 THE FRANCHISING STANDARDS SET FORTH IN THIS ARTICLE AND THE RULES AND
53 REGULATIONS PROMULGATED THEREUNDER BY THE COMMISSION.

54 2. A FRANCHISE SHALL BE DEEMED GRANTED FORTY-FIVE DAYS AFTER THE FRAN-
55 CHISE IS FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION UNLESS THE
56 COMMISSION, OR ITS DESIGNEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY PERI-

1 OD THAT THE PUBLIC INTEREST REQUIRES THE COMMISSION'S REVIEW AND WRITTEN
2 ORDER.

3 [2.] 3. The commission may hold a public hearing on any application
4 for a certificate of confirmation if it determines that such a hearing
5 is in the public interest. The commission shall fix the time and place
6 for such a hearing and cause notice thereof to be given to the appli-
7 cant, the chief executive officer of the municipality issuing the fran-
8 chise and such other persons as the commission may deem appropriate.
9 Testimony may be taken and evidence received at such a hearing pursuant
10 to such rules and procedures as the commission may establish.

11 [3.] 4. [The commission shall issue a] A certificate of confirmation
12 of the franchise [unless it finds that (a) the applicant, (b) the
13 proposed cable television system, or (c) the proposed franchise does not
14 conform to the standards established in the regulations promulgated by
15 the commission pursuant to subdivision two of section two hundred
16 fifteen, or that operation of the proposed cable television system by
17 the applicant under the proposed cable television system by the appli-
18 cant under the proposed franchise would be in violation of law, any
19 regulation or standard promulgated by the commission or the public
20 interest.] SHALL BE DEEMED CONFIRMED FORTY-FIVE DAYS AFTER THE FRANCHISE
21 IS FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION UNLESS THE COMMIS-
22 SION, OR ITS DESIGNEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY PERIOD THAT
23 THE PUBLIC INTEREST REQUIRES THE COMMISSION'S REVIEW AND WRITTEN ORDER.

24 [4.] 5. The commission may issue a certificate of confirmation contin-
25 gent upon compliance with standards, terms or conditions set by the
26 commission which it determines would not have been met by the applicant,
27 system or franchise as proposed.

28 [5.] 6. In the event the commission refuses to issue a certificate of
29 confirmation, it shall set forth in writing the reasons for its deci-
30 sion.

31 [6. Any cable television company which, pursuant to any existing fran-
32 chise, (i) was lawfully engaged in actual operations for (ii) had
33 commenced substantial construction (as such term is defined by the
34 commission) of a cable television system on January first, nineteen
35 hundred seventy-two may continue to exercise said franchise pursuant to
36 the terms thereof, provided such company files with the commission, on
37 or before July first, nineteen hundred seventy-three an application in
38 such form and containing such information and supporting documentation
39 as the commission may require. The commission shall issue a certificate
40 of confirmation to such a cable television company valid for five years
41 without further proceedings, which certificate may be renewed by the
42 commission on application for five year terms pursuant to the provisions
43 of section two hundred twenty-two.

44 7. Notwithstanding any other provisions of this article, any cable
45 television company engaged in actual and lawful nonfranchised cable
46 television operations on April first, nineteen hundred seventy-three,
47 that applied for a certificate of confirmation on or before September
48 first, nineteen hundred seventy-four and received a certificate, valid
49 for a five year period, may continue to operate within the limits of the
50 area in which it was actually rendering service on April first, nineteen
51 hundred seventy-three, as determined by the commission. Such a certif-
52 icate of confirmation may be renewed by the commission on application
53 for five year terms pursuant to the provisions of section two hundred
54 twenty-two of this article. Any such company which failed to file an
55 application pursuant to this section on or before September first, nine-
56 teen hundred seventy-four, shall thereafter be prohibited from continu-

1 ing operation of a nonfranchised cable television system, provided
2 however, that the commission may authorize such continued nonfranchised
3 operation in extraordinary circumstances for such periods as the commis-
4 sion may deem appropriate.

5 8. Nothing in this section shall be deemed to validate a franchise not
6 granted in accordance with law or affect any claims in litigation on
7 January first, nineteen hundred seventy-three. No confirmation under
8 this section shall preclude invalidation of any franchise illegally
9 obtained.

10 9.] 7. Confirmation by the commission and duties performed by the
11 commission with respect to its regulation of cable television providers
12 under this article shall not be deemed to constitute "supervision of the
13 state department of public service" for the purpose of the meaning of
14 such phrase as it is used in describing those utilities which are
15 subject to tax on a gross income basis under section one hundred eight-
16 y-six-a of the tax law or pursuant to section twenty-b of the general
17 city law and subdivision one of section [five hundred thirty] 5-530 of
18 the village law.

19 S 4. Section 222 of the public service law is REPEALED and a new
20 section 222 is added to read as follows:

21 S 222. RENEWAL OR AMENDMENT OF FRANCHISES. 1. EXCEPT AS PROVIDED IN
22 THIS SECTION, NO PERSON SHALL RENEW OR AMEND A FRANCHISE RENEWAL, AND NO
23 SUCH RENEWAL OR AMENDMENT SHALL BE EFFECTIVE, UNLESS A COPY OF SUCH
24 RENEWAL OR AMENDMENT HAS BEEN APPROVED BY THE MUNICIPALITY, AND PROPERLY
25 FILED WITH THE COMMISSION WITHIN THIRTY DAYS OF MUNICIPAL APPROVAL. SUCH
26 RENEWAL OR AMENDMENT SHALL BE SUBJECT, AT A MINIMUM, TO THE FRANCHISING
27 STANDARDS SET FORTH IN THIS ARTICLE AND THE RULES AND REGULATIONS
28 PROMULGATED THEREUNDER BY THE COMMISSION.

29 2. RENEWALS AND AMENDMENTS SHALL BE DEEMED GRANTED FORTY-FIVE DAYS
30 AFTER THE RENEWAL OR AMENDMENT IS FILED PURSUANT TO SUBDIVISION ONE OF
31 THIS SECTION UNLESS THE COMMISSION, OR ITS DESIGNEE, DETERMINES WITHIN
32 SUCH FORTY-FIVE DAY PERIOD THAT THE PUBLIC INTEREST REQUIRES THE COMMIS-
33 SION'S REVIEW AND WRITTEN ORDER.

34 S 5. The public service law is amended by adding a new section 222-a
35 to read as follows:

36 S 222-A. TRANSFER OF FRANCHISES AND TRANSFER OF CONTROL OVER FRAN-
37 CHISES AND SYSTEM PROPERTIES. 1. NO TRANSFER OF ANY FRANCHISE, OR ANY
38 TRANSFER OF CONTROL OF A FRANCHISE OR CERTIFICATE OF CONFIRMATION OR OF
39 FACILITIES CONSTITUTING A SIGNIFICANT PART OF ANY CABLE TELEVISION
40 SYSTEM SHALL BE EFFECTIVE WITHOUT THE PRIOR APPROVAL OF THE COMMISSION.
41 SUCH APPROVAL SHALL BE REQUIRED IN ADDITION TO ANY MUNICIPAL APPROVAL
42 REQUIRED UNDER THE FRANCHISE OR BY LAW. FOR THE PURPOSES OF THIS
43 SECTION, A MERGER OR CONSOLIDATION OF TWO OR MORE CABLE TELEVISION
44 COMPANIES SHALL BE DEEMED TO BE A TRANSFER OF THE FRANCHISES OR CERTIF-
45 ICATES GRANTED TO SUCH COMPANIES.

46 2. A PERSON WISHING TO TRANSFER A FRANCHISE, OR TO TRANSFER CONTROL OF
47 A FRANCHISE OR OF A SUBSTANTIAL PART OF THE FACILITIES THEREOF SHALL
48 FILE WITH THE COMMISSION AN APPLICATION FOR APPROVAL OF SUCH CHANGE, IN
49 SUCH FORM AND CONTAINING SUCH INFORMATION AND SUPPORTING DOCUMENTS AS
50 THE COMMISSION MAY REQUIRE. THE APPLICATION SHALL BE ACCOMPANIED BY
51 PROOF OF SERVICE THEREOF UPON THE FRANCHISOR, IF ANY, AND BY SUCH FEE AS
52 THE COMMISSION MAY SET. THE COMMISSION MAY HOLD A PUBLIC HEARING ON ANY
53 SUCH APPLICATION.

54 3. THE COMMISSION SHALL APPROVE THE APPLICATION UNLESS IT FINDS THAT
55 THE APPLICANT, THE PROPOSED TRANSFEREE OR THE CABLE TELEVISION SYSTEM
56 DOES NOT CONFORM TO THE STANDARDS ESTABLISHED IN THE REGULATIONS PROMUL-

1 GATED BY THE COMMISSION PURSUANT TO THIS ARTICLE OR THAT APPROVAL WOULD
2 BE IN VIOLATION OF LAW, ANY REGULATION OR STANDARD PROMULGATED BY THE
3 COMMISSION OR THE PUBLIC INTEREST, PROVIDED HOWEVER, THAT A FAILURE TO
4 CONFORM TO THE STANDARDS ESTABLISHED IN THE REGULATIONS PROMULGATED BY
5 THE COMMISSION SHALL NOT PRECLUDE APPROVAL OF ANY SUCH APPLICATION IF
6 THE COMMISSION FINDS THAT SUCH APPROVAL WOULD SERVE THE PUBLIC INTEREST.

7 4. THE COMMISSION MAY APPROVE THE APPLICATION CONTINGENT UPON COMPLI-
8 ANCE WITH STANDARDS, TERMS OR CONDITIONS SET BY THE COMMISSION WHICH IT
9 DETERMINES WOULD NOT HAVE BEEN MET BY THE PROPOSED TRANSFER OF A FRAN-
10 CHISE.

11 5. IN THE EVENT THE COMMISSION REFUSES TO APPROVE THE APPLICATION, IT
12 SHALL SET FORTH IN WRITING THE REASONS FOR ITS DECISION.

13 6. APPROVAL OF A TRANSFER OF A FRANCHISE UNDER THIS SECTION SHALL NOT
14 PRECLUDE INVALIDATION OF A FRANCHISE ILLEGALLY OBTAINED.

15 S 6. This act shall take effect immediately; provided, however, that
16 sections three, four and five of this act shall apply to franchises
17 filed on or after the date this act shall have become a law.

18 PART S

19 Section 1. Paragraphs (a) and (b) of subdivision 6 of section 18-a of
20 the public service law, paragraph (a) as amended by section 1 of part BB
21 of chapter 59 of the laws of 2013 and paragraph (b) as amended by
22 section 2 of part A of chapter 173 of the laws of 2013, are amended to
23 read as follows:

24 (a) Notwithstanding any provision of law to the contrary, and subject
25 to the exceptions provided for in paragraph (b) of this subdivision, for
26 the state fiscal year beginning on April first, two thousand nine and
27 eight state fiscal years thereafter, a temporary annual assessment
28 (hereinafter "temporary state energy and utility service conservation
29 assessment") is hereby imposed on public utility companies [(including
30 for the purposes of this subdivision municipalities other than municipi-
31 palities as defined in section eighty-nine-1 of this chapter)], corpo-
32 rations (including for purposes of this subdivision the Long Island
33 power authority), and persons subject to the commission's regulation
34 (hereinafter such public utility companies, corporations, and persons
35 are referred to collectively as the "utility entities") to encourage the
36 conservation of energy and other resources provided through utility
37 entities, to be assessed in the manner provided in this subdivision;
38 provided, however, that such assessment shall not be imposed upon (1) A
39 telephone [corporations as defined in subdivision seventeen of section
40 two of this article] CORPORATION, AND (2) A WATER-WORKS CORPORATION; AND
41 PROVIDED, FURTHER, THAT SUCH ASSESSMENT SHALL NOT BE IMPOSED UPON THE
42 GROSS OPERATING REVENUES DERIVED FROM: (I) AN ELECTRIC CUSTOMER ACCOUNT
43 WITH A MONTHLY PEAK DEMAND OF ONE THOUSAND KILOWATTS OR MORE IN THE LAST
44 PRECEDING CALENDAR YEAR AS DETERMINED PURSUANT TO THE UTILITY ENTITY'S
45 TARIFF, AND (II) A GAS CUSTOMER ACCOUNT WITH AN ANNUAL CONSUMPTION IN
46 THE LAST PRECEDING CALENDAR YEAR OF ONE HUNDRED THOUSAND DEKATHERMS OR
47 MORE AS DETERMINED PURSUANT TO THE UTILITY ENTITY'S TARIFF.

48 (b) The temporary state energy and utility service conservation
49 assessment shall APPLY ONLY TO THOSE CORPORATIONS AND GROSS OPERATING
50 REVENUES NOT EXEMPTED IN PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL be
51 based upon the following percentum of the utility entity's gross operat-
52 ing revenues derived from intrastate utility operations in the last
53 preceding calendar year, minus the amount, if any, that such utility
54 entity is assessed pursuant to subdivisions one and two of this section

1 for the corresponding state fiscal year period: (1) two percentum for
2 the state fiscal year beginning April first, two thousand thirteen;
3 [and] (2) 1.89 PERCENTUM FOR the state fiscal year beginning April
4 first, two thousand fourteen; [(2) one and three-quarters] (3) 1.13
5 percentum for the state fiscal year beginning April first, two thousand
6 fifteen; and [(3) one and one-half] (4) 0.83 percentum for the state
7 fiscal year beginning April first, two thousand sixteen. A PAYMENT FOR
8 SUCH ASSESSMENT RECEIVED BY A UTILITY ENTITY FOR THE STATE FISCAL YEAR
9 BEGINNING APRIL FIRST, TWO THOUSAND FOURTEEN AND THEREAFTER FOR (I)
10 ELECTRIC CUSTOMER ACCOUNTS WITH A MONTHLY PEAK DEMAND OF ONE THOUSAND
11 KILOWATTS OR MORE IN THE LAST PRECEDING CALENDAR YEAR AS DETERMINED
12 PURSUANT TO THE UTILITY ENTITY'S TARIFF, AND (II) GAS CUSTOMER ACCOUNTS
13 WITH AN ANNUAL CONSUMPTION IN THE LAST PRECEDING CALENDAR YEAR OF ONE
14 HUNDRED THOUSAND DEKATHERMS OR MORE AS DETERMINED PURSUANT TO THE UTILI-
15 TY ENTITY'S TARIFF, SHALL BE CREDITED TO SUCH CUSTOMER BY THE UTILITY
16 ENTITY, NO LESS FREQUENTLY THAN SEMI-ANNUALLY AND IN SUCH MANNER AND
17 FORM AS MAY BE DETERMINED BY THE DEPARTMENT. With respect to the tempo-
18 rary state energy and utility service conservation assessment to be paid
19 for the state fiscal year beginning April first, two thousand seventeen
20 and notwithstanding clause (i) of paragraph (d) of this subdivision, on
21 or before March tenth, two thousand seventeen, utility entities shall
22 make a payment equal to one-half of the assessment paid by such entities
23 pursuant to this paragraph for the state fiscal year beginning on April
24 first, two thousand sixteen. With respect to the Long Island power
25 authority, the temporary state energy and utility service conservation
26 assessment shall APPLY ONLY TO THE GROSS OPERATING REVENUES NOT EXEMPTED
27 IN PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL be based upon the follow-
28 ing percentum of such authority's gross operating revenues derived from
29 intrastate utility operations in the last preceding calendar year, minus
30 the amount, if any, that such authority is assessed pursuant to subdivi-
31 sions one-a and two of this section for the corresponding state fiscal
32 year period: (1) one percentum for the state fiscal year beginning April
33 first, two thousand thirteen; [and] (2) 0.95 PERCENTUM FOR the state
34 fiscal year beginning April first, two thousand fourteen; [(2) three-
35 quarters of one] (3) 0.54 percentum for the state fiscal year beginning
36 April first, two thousand fifteen; and [(3) one-half] (4) 0.36 percentum
37 for the state fiscal year beginning April first, two thousand sixteen;
38 provided, however, that should the amount assessed by the department for
39 costs and expenses pursuant to such subdivisions equal or exceed such
40 authority's temporary state energy and utility service conservation
41 assessment for a particular fiscal year, the amount to be paid under
42 this subdivision by such authority shall be zero. A PAYMENT FOR SUCH
43 ASSESSMENT RECEIVED FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO
44 THOUSAND FOURTEEN AND THEREAFTER FOR ELECTRIC CUSTOMER ACCOUNTS WITH A
45 MONTHLY PEAK DEMAND OF ONE THOUSAND KILOWATTS OR MORE IN THE LAST
46 PRECEDING CALENDAR YEAR AS DETERMINED BY THE AUTHORITY'S TARIFF SHALL BE
47 CREDITED TO SUCH CUSTOMER BY THE AUTHORITY, NO LESS FREQUENTLY THAN
48 SEMI-ANNUALLY AND IN SUCH MANNER AND FORM AS MAY BE DETERMINED BY THE
49 AUTHORITY, IN CONSULTATION WITH THE DEPARTMENT. With respect to the
50 temporary state energy and utility service conservation assessment to be
51 paid for the state fiscal year beginning April first, two thousand
52 seventeen and notwithstanding clause (i) of paragraph (d) of this subdivi-
53 sion, on or before March tenth, two thousand seventeen, the Long
54 Island power authority shall make a payment equal to one-half of the
55 assessment it paid for the state fiscal year beginning on April first,
56 two thousand sixteen. No corporation or person subject to the jurisdic-

1 tion of the commission only with respect to safety, or the power author-
2 ity of the state of New York, shall be subject to the temporary state
3 energy and utility service conservation assessment provided for under
4 this subdivision. Utility entities whose gross operating revenues from
5 intrastate utility operations are five hundred thousand dollars or less
6 in the preceding calendar year shall not be subject to the temporary
7 state energy and utility service conservation assessment. The minimum
8 temporary state energy and utility service conservation assessment to be
9 billed to any utility entity whose gross revenues from intrastate utili-
10 ty operations are in excess of five hundred thousand dollars in the
11 preceding calendar year shall be two hundred dollars.

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, 2014; provided,
14 however, that the amendments to subdivision 6 of section 18-a of the
15 public service law made by section one of this act shall not affect the
16 repeal of such subdivision and shall be deemed to be repealed therewith.

17

PART T

18 Section 1. The opening paragraph of section 5102 of the insurance law
19 is amended and a new subsection (n) is added to read as follows:

20 In this [chapter] ARTICLE:

21 (N) "PROVIDER OF HEALTH SERVICES" MEANS AN INDIVIDUAL OR ENTITY WHO OR
22 THAT RENDERS OR HAS RENDERED HEALTH SERVICES.

23 S 2. Section 5109 of the insurance law, as added by chapter 423 of the
24 laws of 2005, is amended to read as follows:

25 S 5109. Unauthorized providers of health services. (a) [The super-
26 intendent, in consultation with the commissioner of health and the
27 commissioner of education, shall by regulation, promulgate standards and
28 procedures for investigating and suspending or removing the authori-
29 zation for providers of health services to demand or request payment for
30 health services as specified in paragraph one of subsection (a) of
31 section five thousand one hundred two of this article upon findings
32 reached after investigation pursuant to this section. Such regulations
33 shall ensure the same or greater due process provisions, including
34 notice and opportunity to be heard, as those afforded physicians inves-
35 tigated under article two of the workers' compensation law and shall
36 include provision for notice to all providers of health services of the
37 provisions of this section and regulations promulgated thereunder at
38 least ninety days in advance of the effective date of such regulations]
39 AS USED IN THIS SECTION, "HEALTH SERVICES" MEANS SERVICES, SUPPLIES,
40 THERAPIES, OR OTHER TREATMENTS AS SPECIFIED IN SUBPARAGRAPH (I), (II),
41 OR (IV) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION FIVE THOUSAND ONE
42 HUNDRED TWO OF THIS ARTICLE.

43 (b) [The commissioner of health and the commissioner of education
44 shall provide a list of the names of all providers of health services
45 who the commissioner of health and the commissioner of education shall
46 deem, after reasonable investigation, not authorized to demand or
47 request any payment for medical services in connection with any claim
48 under this article because such] THE SUPERINTENDENT MAY PROHIBIT A
49 provider of health services FROM DEMANDING OR REQUESTING PAYMENT FOR
50 HEALTH SERVICES RENDERED UNDER THIS ARTICLE, FOR A PERIOD SPECIFIED BY
51 THE SUPERINTENDENT, IF THE SUPERINTENDENT DETERMINES, AFTER NOTICE AND
52 HEARING, THAT THE PROVIDER OF HEALTH SERVICES:

53 (1) has ADMITTED TO, OR been FOUND guilty of, professional [or other]
54 misconduct [or incompetency], AS DEFINED IN THE EDUCATION LAW, in

1 connection with [medical] HEALTH services rendered under this article;
2 [or]

3 (2) [has exceeded the limits of his or her professional competence in
4 rendering medical care under this article or] has knowingly made a false
5 statement or representation as to a material fact in any medical report
6 made, OR DOCUMENT SUBMITTED, in connection with any claim under this
7 article; or

8 (3) solicited, or [has] employed another PERSON to solicit for
9 [himself or herself] THE PROVIDER OF HEALTH SERVICES or [for] another
10 INDIVIDUAL OR ENTITY, professional treatment, examination or care of [an
11 injured] A person in connection with any claim under this article; [or]

12 (4) [has] refused to appear before, or [to] answer ANY QUESTION upon
13 request of, the [commissioner of health, the] superintendent[,], or any
14 duly authorized officer of [the] THIS state, [any legal question,] or
15 REFUSED to produce any relevant information concerning [his or her] THE
16 conduct OF THE PROVIDER OF HEALTH SERVICES in connection with [rendering
17 medical] HEALTH services RENDERED under this article; [or]

18 (5) [has] engaged in [patterns] A PATTERN of billing for:

19 (A) HEALTH services [which] ALLEGED TO HAVE BEEN RENDERED UNDER THIS
20 ARTICLE, WHEN THE HEALTH SERVICES were not [provided.] RENDERED; OR

21 (B) UNNECESSARY HEALTH SERVICES;

22 (6) UTILIZED UNLICENSED PERSONS TO RENDER HEALTH SERVICES UNDER THIS
23 ARTICLE, WHEN ONLY A PERSON LICENSED IN THIS STATE MAY RENDER THE HEALTH
24 SERVICES;

25 (7) UTILIZED LICENSED PERSONS TO RENDER HEALTH SERVICES, WHEN RENDER-
26 ING THE HEALTH SERVICES IS BEYOND THE AUTHORIZED SCOPE OF THE PERSON'S
27 LICENSE;

28 (8) DIRECTLY OR INDIRECTLY CEDED OWNERSHIP OR CONTROL OF A BUSINESS
29 ENTITY AUTHORIZED TO PROVIDE PROFESSIONAL HEALTH SERVICES IN THIS STATE,
30 INCLUDING A PROFESSIONAL SERVICE CORPORATION, PROFESSIONAL LIMITED
31 LIABILITY COMPANY, OR REGISTERED LIMITED LIABILITY PARTNERSHIP, TO A
32 PERSON NOT LICENSED TO RENDER THE HEALTH SERVICES WHICH THE ENTITY IS
33 LEGALLY AUTHORIZED TO PROVIDE, EXCEPT WHERE THE UNLICENSED PERSON'S
34 OWNERSHIP OR CONTROL IS OTHERWISE PERMITTED BY LAW;

35 (9) HAS BEEN CONVICTED OF OR PLED GUILTY TO ANY CRIME OR VIOLATION OF
36 THE PENAL LAW IN CONNECTION WITH HEALTH SERVICES RENDERED UNDER THIS
37 ARTICLE;

38 (10) HAS BEEN CONVICTED OF A CRIME INVOLVING FRAUDULENT OR DISHONEST
39 PRACTICES; OR

40 (11) VIOLATED ANY PROVISION OF THIS ARTICLE OR REGULATIONS PROMULGATED
41 THEREUNDER.

42 (c) [Providers] A PROVIDER of health services shall [refrain from
43 subsequently treating for remuneration, as a private patient, any person
44 seeking medical treatment] NOT DEMAND OR REQUEST PAYMENT FROM THE
45 PATIENT, ANY INSURER, OR ANY OTHER PERSON FOR ANY HEALTH SERVICES under
46 this article [if such provider pursuant to this section has been prohib-
47 ited from demanding or requesting any payment for medical services under
48 this article. An injured claimant so treated or examined may raise this
49 as] THAT ARE RENDERED DURING THE TERM OF THE PROHIBITION ORDERED BY THE
50 SUPERINTENDENT PURSUANT TO SUBSECTION (B) OF THIS SECTION. THE PROHIBI-
51 TION ORDERED BY THE SUPERINTENDENT MAY BE a defense in any action by
52 [such] THE provider OF HEALTH SERVICES for payment for [treatment
53 rendered at any time after such provider has been prohibited from
54 demanding or requesting payment for medical services in connection with
55 any claim under this article] SUCH HEALTH SERVICES.

1 (d) The [commissioner of health and the commissioner of education]
2 SUPERINTENDENT shall maintain [and regularly update] a database contain-
3 ing a list of providers of health services prohibited by this section
4 from demanding or requesting any payment for health services [connected
5 to a claim] RENDERED under this article and shall make [such] THE infor-
6 mation available to the public [by means of a website and by a toll free
7 number].

8 (e) THE SUPERINTENDENT MAY LEVY A CIVIL PENALTY NOT EXCEEDING TEN
9 THOUSAND DOLLARS FOR EACH OFFENSE ON ANY PROVIDER OF HEALTH SERVICES
10 THAT THE SUPERINTENDENT PROHIBITS FROM DEMANDING OR REQUESTING PAYMENT
11 FOR HEALTH SERVICES PURSUANT TO SUBSECTION (B) OF THIS SECTION. ANY
12 CIVIL PENALTY IMPOSED FOR A FRAUDULENT INSURANCE ACT AS DEFINED IN
13 SECTION 176.05 OF THE PENAL LAW SHALL BE LEVIED PURSUANT TO ARTICLE FOUR
14 OF THIS CHAPTER.

15 (F) Nothing in this section shall be construed as limiting in any
16 respect the powers and duties of the commissioner of health, commission-
17 er of education or the superintendent to investigate instances of
18 misconduct by a [health care] provider [and, after a hearing and upon
19 written notice to the provider, to temporarily prohibit a provider of
20 health services under such investigation from demanding or requesting
21 any payment for medical services under this article for up to ninety
22 days from the date of such notice] OF HEALTH SERVICES AND TAKE APPROPRI-
23 ATE ACTION PURSUANT TO ANY OTHER PROVISION OF LAW. A DETERMINATION OF
24 THE SUPERINTENDENT PURSUANT TO SUBSECTION (B) OF THIS SECTION SHALL NOT
25 BE BINDING UPON THE COMMISSIONER OF HEALTH OR COMMISSIONER OF EDUCATION
26 IN A PROFESSIONAL DISCIPLINE PROCEEDING RELATING TO THE SAME CONDUCT.

27 S 3. Paragraph 1 of subsection (a) of section 308 of the insurance
28 law, as amended by chapter 499 of the laws of 2009, is amended to read
29 as follows:

30 (1) The superintendent may also address to any health maintenance
31 organization, life settlement provider, life settlement intermediary or
32 its officers, ANY PROVIDER OF HEALTH SERVICES WHO DEMANDS OR REQUESTS
33 PAYMENT FOR HEALTH SERVICES RENDERED UNDER ARTICLE FIFTY-ONE OF THIS
34 CHAPTER, or any authorized insurer or rate service organization, or
35 officers thereof, any inquiry in relation to its transactions or condi-
36 tion or any matter connected therewith. Every corporation or person so
37 addressed shall reply in writing to such inquiry promptly and truthfully,
38 and such reply shall be, if required by the superintendent,
39 subscribed by such individual, or by such officer or officers of a
40 corporation, as the superintendent shall designate, and affirmed by them
41 as true under the penalties of perjury.

42 S 4. The insurance law is amended by adding a new section 5110 to read
43 as follows:

44 S 5110. EXAMINATIONS OF PROVIDERS OF HEALTH SERVICES; WHEN AUTHORIZED
45 OR REQUIRED. (A) THE SUPERINTENDENT MAY MAKE AN EXAMINATION, INCLUDING
46 AN AUDIT OR UNANNOUNCED INSPECTION, INTO THE AFFAIRS OF ANY PROVIDER OF
47 HEALTH SERVICES THAT DEMANDS OR REQUESTS PAYMENT FOR HEALTH SERVICES
48 RENDERED UNDER THIS ARTICLE AS OFTEN AS THE SUPERINTENDENT DEEMS IT
49 EXPEDIENT FOR THE PROTECTION OF THE INTERESTS OF THE PEOPLE OF THIS
50 STATE. AS USED IN THIS SECTION, "HEALTH SERVICES" MEANS SERVICES,
51 SUPPLIES, THERAPIES, OR OTHER TREATMENTS AS SPECIFIED IN SUBPARAGRAPH
52 (I), (II), OR (IV) OF PARAGRAPH ONE OF SUBSECTION (A) OF SECTION FIVE
53 THOUSAND ONE HUNDRED TWO OF THIS ARTICLE.

54 (B)(1) WHENEVER THE SUPERINTENDENT SHALL DETERMINE TO EXAMINE THE
55 AFFAIRS OF ANY PROVIDER OF HEALTH SERVICES, THE SUPERINTENDENT SHALL
56 MAKE AN ORDER INDICATING THE SCOPE OF THE EXAMINATION AND MAY APPOINT AS

1 EXAMINERS ONE OR MORE PERSONS NOT EMPLOYED BY ANY PROVIDER OF HEALTH
2 SERVICES OR INSURER OR INTERESTED IN ANY PROVIDER OF HEALTH SERVICES OR
3 INSURER, EXCEPT AS A POLICYHOLDER. A COPY OF SUCH ORDER SHALL UPON
4 DEMAND BE EXHIBITED TO THE PROVIDER OF HEALTH SERVICES WHOSE AFFAIRS ARE
5 TO BE EXAMINED BEFORE THE EXAMINATION BEGINS.

6 (2) ANY EXAMINER AUTHORIZED BY THE SUPERINTENDENT SHALL BE GIVEN
7 CONVENIENT ACCESS AT ALL REASONABLE HOURS TO THE BOOKS, RECORDS, FILES,
8 SECURITIES AND OTHER DOCUMENTS OF SUCH PROVIDER OF HEALTH SERVICES THAT
9 ARE RELEVANT TO THE EXAMINATION, AND SHALL HAVE POWER TO ADMINISTER
10 OATHS AND TO EXAMINE UNDER OATH ANY OFFICER OR AGENT OF SUCH PROVIDER OF
11 HEALTH SERVICES, AND ANY OTHER PERSON HAVING CUSTODY OR CONTROL OF SUCH
12 DOCUMENTS, REGARDING ANY MATTER RELEVANT TO THE EXAMINATION.

13 (3) THE OFFICERS AND AGENTS OF SUCH PROVIDER OF HEALTH SERVICES SHALL
14 FACILITATE SUCH EXAMINATION AND AID SUCH EXAMINERS IN CONDUCTING THE
15 SAME SO FAR AS IT IS IN THEIR POWER TO DO SO.

16 (4) THE REFUSAL OF ANY PROVIDER OF HEALTH SERVICES TO SUBMIT TO EXAM-
17 INATION SHALL BE GROUNDS FOR THE SUPERINTENDENT PROHIBITING THE PROVIDER
18 OF HEALTH SERVICES FROM DEMANDING OR REQUESTING PAYMENT FOR HEALTH
19 SERVICES RENDERED UNDER THIS ARTICLE PURSUANT TO SECTION FIVE THOUSAND
20 ONE HUNDRED NINE OF THIS ARTICLE.

21 (5) AN EXAMINATION SHALL BE CONDUCTED CONSISTENT WITH ALL APPLICABLE
22 STATE AND FEDERAL PRIVACY LAWS.

23 (6) THIS SECTION SHALL NOT APPLY TO A GENERAL HOSPITAL, AS DEFINED IN
24 SUBDIVISION TEN OF SECTION TWO THOUSAND EIGHT HUNDRED ONE OF THE PUBLIC
25 HEALTH LAW, OR A PROVIDER OF HEALTH SERVICES THAT SUBMITTED LESS THAN
26 FIFTY CLAIMS IN THE PRIOR CALENDAR YEAR FOR HEALTH SERVICES RENDERED
27 UNDER THIS ARTICLE.

28 S 5. This act shall take effect immediately; provided, however, that
29 sections one and two of this act shall take effect on the sixtieth day
30 after it shall have become a law.

31 PART U

32 Section 1. Paragraphs 11, 12, 13, 14, 16 and 17 of subsection (a) of
33 section 3217-a of the insurance law, as added by chapter 705 of the laws
34 of 1996, are amended and four new paragraphs 16-a, 18, 19 and 20 are
35 added to read as follows:

36 (11) where applicable, notice that an insured enrolled in a managed
37 care product OR IN A COMPREHENSIVE POLICY THAT UTILIZES A NETWORK OF
38 PROVIDERS offered by the insurer may obtain a referral [to] OR PREAU-
39 THORIZATION FOR a health care provider outside of the insurer's network
40 or panel when the insurer does not have a health care provider [with]
41 WHO IS GEOGRAPHICALLY ACCESSIBLE TO THE INSURED AND WHO HAS THE appro-
42 priate ESSENTIAL LEVEL OF training and experience in the network or
43 panel to meet the particular health care needs of the insured and the
44 procedure by which the insured can obtain such referral OR PREAUTHORI-
45 ZATION;

46 (12) where applicable, notice that an insured enrolled in a managed
47 care product OR A COMPREHENSIVE POLICY THAT UTILIZES A NETWORK OF
48 PROVIDERS offered by the insurer with a condition which requires ongoing
49 care from a specialist may request a standing referral to such a
50 specialist and the procedure for requesting and obtaining such a stand-
51 ing referral;

52 (13) where applicable, notice that an insured enrolled in a managed
53 care product OR A COMPREHENSIVE POLICY THAT UTILIZES A NETWORK OF
54 PROVIDERS offered by the insurer with [(i)] (A) a life-threatening

1 condition or disease, or [(ii)] (B) a degenerative and disabling condi-
2 tion or disease, either of which requires specialized medical care over
3 a prolonged period of time may request a specialist responsible for
4 providing or coordinating the insured's medical care and the procedure
5 for requesting and obtaining such a specialist;

6 (14) where applicable, notice that an insured enrolled in a managed
7 care product OR A COMPREHENSIVE POLICY THAT UTILIZES A NETWORK OF
8 PROVIDERS offered by the insurer with [(i)] (A) a life-threatening
9 condition or disease, or [(ii)] (B) a degenerative and disabling condi-
10 tion or disease, either of which requires specialized medical care over
11 a prolonged period of time, may request access to a specialty care
12 center and the procedure by which such access may be obtained;

13 (16) notice of all appropriate mailing addresses and telephone numbers
14 to be utilized by insureds seeking information or authorization; [and]

15 (16-A) WHERE APPLICABLE, NOTICE THAT AN INSURED SHALL HAVE DIRECT
16 ACCESS TO PRIMARY AND PREVENTIVE OBSTETRIC AND GYNECOLOGIC SERVICES,
17 INCLUDING ANNUAL EXAMINATIONS, CARE RESULTING FROM SUCH ANNUAL EXAMINA-
18 TIONS, AND TREATMENT OF ACUTE GYNECOLOGIC CONDITIONS, FROM A QUALIFIED
19 PROVIDER OF SUCH SERVICES OF HER CHOICE FROM WITHIN THE PLAN OR FOR ANY
20 CARE RELATED TO A PREGNANCY;

21 (17) where applicable, a listing by specialty, which may be in a sepa-
22 rate document that is updated annually, of the name, address, and tele-
23 phone number of all participating providers, including facilities, and
24 in addition, in the case of physicians, board certification[.],
25 LANGUAGES SPOKEN AND ANY AFFILIATIONS WITH PARTICIPATING HOSPITALS. THE
26 LISTING SHALL ALSO BE POSTED ON THE INSURER'S WEBSITE AND THE INSURER
27 SHALL UPDATE THE WEBSITE WITHIN FIFTEEN DAYS OF THE ADDITION OR TERMI-
28 NATION OF A PROVIDER FROM THE INSURER'S NETWORK OR A CHANGE IN A PHYSI-
29 CIAN'S HOSPITAL AFFILIATION;

30 (18) A DESCRIPTION OF THE METHOD BY WHICH AN INSURED MAY SUBMIT A
31 CLAIM FOR HEALTH CARE SERVICES;

32 (19) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE:

33 (A) A CLEAR DESCRIPTION OF THE METHODOLOGY USED BY THE INSURER TO
34 DETERMINE REIMBURSEMENT FOR OUT-OF-NETWORK HEALTH CARE SERVICES;

35 (B) A DESCRIPTION OF THE AMOUNT THAT THE INSURER WILL REIMBURSE UNDER
36 THE METHODOLOGY FOR OUT-OF-NETWORK HEALTH CARE SERVICES SET FORTH AS A
37 PERCENTAGE OF THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK HEALTH
38 CARE SERVICES; AND

39 (C) EXAMPLES OF ANTICIPATED OUT-OF-POCKET COSTS FOR FREQUENTLY BILLED
40 OUT-OF-NETWORK HEALTH CARE SERVICES; AND

41 (20) INFORMATION IN WRITING AND THROUGH AN INTERNET WEBSITE THAT
42 REASONABLY PERMITS AN INSURED OR PROSPECTIVE INSURED TO DETERMINE THE
43 ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE SERVICES
44 IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE BETWEEN
45 WHAT THE INSURER WILL REIMBURSE FOR OUT-OF-NETWORK HEALTH CARE SERVICES
46 AND THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK HEALTH CARE
47 SERVICES.

48 S 2. Paragraphs 11 and 12 of subsection (b) of section 3217-a of the
49 insurance law, as added by chapter 705 of the laws of 1996, are amended
50 and two new paragraphs 13 and 14 are added to read as follows:

51 (11) where applicable, provide the written application procedures and
52 minimum qualification requirements for health care providers to be
53 considered by the insurer for participation in the insurer's network for
54 a managed care product; [and]

1 (12) disclose such other information as required by the superinten-
2 dent, provided that such requirements are promulgated pursuant to the
3 state administrative procedure act[.];

4 (13) DISCLOSE WHETHER A HEALTH CARE PROVIDER SCHEDULED TO PROVIDE A
5 HEALTH CARE SERVICE IS AN IN-NETWORK PROVIDER; AND

6 (14) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE,
7 DISCLOSE THE DOLLAR AMOUNT THAT THE INSURER WILL PAY FOR A SPECIFIC
8 OUT-OF-NETWORK HEALTH CARE SERVICE.

9 S 3. Section 3217-a of the insurance law is amended by adding a new
10 subsection (f) to read as follows:

11 (F) FOR PURPOSES OF THIS SECTION, "USUAL AND CUSTOMARY COST" SHALL
12 MEAN THE EIGHTIETH PERCENTILE OF ALL CHARGES FOR THE PARTICULAR HEALTH
13 CARE SERVICE PERFORMED BY A PROVIDER IN THE SAME OR SIMILAR SPECIALTY
14 AND PROVIDED IN THE SAME GEOGRAPHICAL AREA AS REPORTED IN A BENCHMARKING
15 DATABASE MAINTAINED BY A NONPROFIT ORGANIZATION SPECIFIED BY THE SUPER-
16 INTENDENT. THE NONPROFIT ORGANIZATION SHALL NOT BE AFFILIATED WITH AN
17 INSURER, A CORPORATION SUBJECT TO ARTICLE FORTY-THREE OF THIS CHAPTER, A
18 MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE
19 FORTY-SEVEN OF THIS CHAPTER, OR A HEALTH MAINTENANCE ORGANIZATION CERTI-
20 FIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

21 S 4. Section 3217-d of the insurance law is amended by adding a new
22 subsection (d) to read as follows:

23 (D) AN INSURER THAT ISSUES A COMPREHENSIVE POLICY THAT UTILIZES A
24 NETWORK OF PROVIDERS AND IS NOT A MANAGED CARE HEALTH INSURANCE CONTRACT
25 AS DEFINED IN SUBSECTION (C) OF SECTION FOUR THOUSAND EIGHT HUNDRED ONE
26 OF THIS CHAPTER, SHALL PROVIDE ACCESS TO OUT-OF-NETWORK SERVICES
27 CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION (A) OF SECTION FOUR THOU-
28 SAND EIGHT HUNDRED FOUR OF THIS CHAPTER, SUBSECTIONS (G-6) AND (G-7) OF
29 SECTION FOUR THOUSAND NINE HUNDRED OF THIS CHAPTER, SUBSECTIONS (A-1)
30 AND (A-2) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS CHAPTER,
31 PARAGRAPHS THREE AND FOUR OF SUBSECTION (B) OF SECTION FOUR THOUSAND
32 NINE HUNDRED TEN OF THIS CHAPTER, AND SUBPARAGRAPHS (C) AND (D) OF PARA-
33 GRAPH FOUR OF SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED FOUR-
34 TEEN OF THIS CHAPTER.

35 S 5. Section 3224-a of the insurance law is amended by adding a new
36 subsection (j) to read as follows:

37 (J) AN INSURER OR AN ORGANIZATION OR CORPORATION LICENSED OR CERTIFIED
38 PURSUANT TO ARTICLE FORTY-THREE OR FORTY-SEVEN OF THIS CHAPTER OR ARTI-
39 CLE FORTY-FOUR OF THE PUBLIC HEALTH LAW OR A STUDENT HEALTH PLAN ESTAB-
40 LISHED OR MAINTAINED PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWEN-
41 TY-FOUR OF THIS CHAPTER SHALL ACCEPT CLAIMS SUBMITTED BY A POLICYHOLDER
42 OR COVERED PERSON, IN WRITING, INCLUDING THROUGH THE INTERNET, BY ELEC-
43 TRONIC MAIL OR BY FACSIMILE.

44 S 6. The insurance law is amended by adding a new section 3241 to read
45 as follows:

46 S 3241. NETWORK COVERAGE. (A) AN INSURER, A CORPORATION ORGANIZED
47 PURSUANT TO ARTICLE FORTY-THREE OF THIS CHAPTER, A MUNICIPAL COOPERATIVE
48 HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS
49 CHAPTER, OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT TO
50 SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER, THAT
51 ISSUES A HEALTH INSURANCE POLICY OR CONTRACT WITH A NETWORK OF HEALTH
52 CARE PROVIDERS SHALL ENSURE THAT THE NETWORK IS ADEQUATE TO MEET THE
53 HEALTH NEEDS OF INSUREDS AND PROVIDE AN APPROPRIATE CHOICE OF PROVIDERS
54 SUFFICIENT TO RENDER THE SERVICES COVERED UNDER THE POLICY OR CONTRACT.
55 THE SUPERINTENDENT SHALL REVIEW THE NETWORK OF HEALTH CARE PROVIDERS FOR
56 ADEQUACY AT THE TIME OF THE SUPERINTENDENT'S INITIAL APPROVAL OF A

1 HEALTH INSURANCE POLICY OR CONTRACT; AT LEAST EVERY THREE YEARS THERE-
2 AFTER; AND UPON APPLICATION FOR EXPANSION OF ANY SERVICE AREA ASSOCIATED
3 WITH THE POLICY OR CONTRACT IN CONFORMANCE WITH THE STANDARDS SET FORTH
4 IN SUBDIVISION FIVE OF SECTION FOUR THOUSAND FOUR HUNDRED THREE OF THE
5 PUBLIC HEALTH LAW. TO THE EXTENT THAT THE NETWORK HAS BEEN DETERMINED
6 BY THE COMMISSIONER OF HEALTH TO MEET THE STANDARDS SET FORTH IN SUBDI-
7 VISION FIVE OF SECTION FOUR THOUSAND FOUR HUNDRED THREE OF THE PUBLIC
8 HEALTH LAW, SUCH NETWORK SHALL BE DEEMED ADEQUATE BY THE SUPERINTENDENT.

9 (B)(1) AN INSURER, A CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-
10 THREE OF THIS CHAPTER, A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN
11 CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER, A HEALTH
12 MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE
13 PUBLIC HEALTH LAW OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED
14 PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAP-
15 TER, THAT ISSUES A COMPREHENSIVE GROUP OR GROUP REMITTANCE HEALTH INSUR-
16 ANCE POLICY OR CONTRACT THAT COVERS OUT-OF-NETWORK HEALTH CARE SERVICES
17 SHALL MAKE AVAILABLE AND, IF REQUESTED BY THE POLICYHOLDER OR CONTRACT-
18 HOLDER, PROVIDE COVERAGE FOR AT LEAST SEVENTY PERCENT OF THE USUAL AND
19 CUSTOMARY COST OF EACH OUT-OF-NETWORK HEALTH CARE SERVICE AFTER IMPOSI-
20 TION OF A DEDUCTIBLE OR ANY PERMISSIBLE BENEFIT MAXIMUM.

21 (2) FOR THE PURPOSES OF THIS SUBSECTION, "USUAL AND CUSTOMARY COST"
22 SHALL MEAN THE EIGHTIETH PERCENTILE OF ALL CHARGES FOR THE PARTICULAR
23 HEALTH CARE SERVICE PERFORMED BY A PROVIDER IN THE SAME OR SIMILAR
24 SPECIALTY AND PROVIDED IN THE SAME GEOGRAPHICAL AREA AS REPORTED IN A
25 BENCHMARKING DATABASE MAINTAINED BY A NONPROFIT ORGANIZATION SPECIFIED
26 BY THE SUPERINTENDENT. THE NONPROFIT ORGANIZATION SHALL NOT BE AFFIL-
27 IATED WITH AN INSURER, A CORPORATION SUBJECT TO ARTICLE FORTY-THREE OF
28 THIS CHAPTER, A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED
29 PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER, A HEALTH MAINTENANCE
30 ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC
31 HEALTH LAW OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT
32 TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER.

33 (3) THIS SUBSECTION SHALL NOT APPLY TO EMERGENCY CARE SERVICES IN
34 HOSPITAL FACILITIES OR PREHOSPITAL EMERGENCY MEDICAL SERVICES AS DEFINED
35 IN CLAUSE (I) OF SUBPARAGRAPH (E) OF PARAGRAPH TWENTY-FOUR OF SUBSECTION
36 (I) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS ARTICLE, OR
37 CLAUSE (I) OF SUBPARAGRAPH (E) OF PARAGRAPH FIFTEEN OF SUBSECTION (L) OF
38 SECTION THREE THOUSAND TWO HUNDRED TWENTY-ONE OF THIS CHAPTER, OR
39 SUBPARAGRAPH (A) OF PARAGRAPH FIVE OF SUBSECTION (AA) OF SECTION FOUR
40 THOUSAND THREE HUNDRED THREE OF THIS CHAPTER.

41 (4) NOTHING IN THIS SUBSECTION SHALL LIMIT THE SUPERINTENDENT'S
42 AUTHORITY PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED SEVENTEEN OF
43 THIS ARTICLE TO ESTABLISH MINIMUM STANDARDS FOR THE FORM, CONTENT AND
44 SALE OF ACCIDENT AND HEALTH INSURANCE POLICIES AND SUBSCRIBER CONTRACTS,
45 TO REQUIRE ADDITIONAL COVERAGE OPTIONS FOR OUT-OF-NETWORK SERVICES, OR
46 TO PROVIDE FOR STANDARDIZATION AND SIMPLIFICATION OF COVERAGE.

47 (C) WHEN AN INSURED OR ENROLLEE UNDER A CONTRACT OR POLICY THAT
48 PROVIDES COVERAGE FOR EMERGENCY SERVICES RECEIVES THE SERVICES FROM A
49 HEALTH CARE PROVIDER THAT DOES NOT PARTICIPATE IN THE PROVIDER NETWORK
50 OF AN INSURER, A CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE
51 OF THIS CHAPTER, A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED
52 PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER, A HEALTH MAINTENANCE
53 ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC
54 HEALTH LAW, OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT
55 TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER ("HEALTH
56 CARE PLAN"), THE HEALTH CARE PLAN SHALL ENSURE THAT THE INSURED OR

1 ENROLLEE SHALL INCUR NO GREATER OUT-OF-POCKET COSTS FOR THE EMERGENCY
2 SERVICES THAN THE INSURED OR ENROLLEE WOULD HAVE INCURRED WITH A HEALTH
3 CARE PROVIDER THAT PARTICIPATES IN THE HEALTH CARE PLAN'S PROVIDER
4 NETWORK. FOR THE PURPOSE OF THIS SECTION, "EMERGENCY SERVICES" SHALL
5 HAVE THE MEANING SET FORTH IN SUBPARAGRAPH (D) OF PARAGRAPH NINE OF
6 SUBSECTION (I) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS
7 ARTICLE, SUBPARAGRAPH (D) OF PARAGRAPH FOUR OF SUBSECTION (K) OF SECTION
8 THREE THOUSAND TWO HUNDRED TWENTY-ONE OF THIS ARTICLE, AND SUBPARAGRAPH
9 (D) OF PARAGRAPH TWO OF SUBSECTION (A) OF SECTION FOUR THOUSAND THREE
10 HUNDRED THREE OF THIS CHAPTER.

11 S 7. Section 4306-c of the insurance law is amended by adding a new
12 subsection (d) to read as follows:

13 (D) A CORPORATION, INCLUDING A MUNICIPAL COOPERATIVE HEALTH BENEFIT
14 PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER AND A
15 STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT TO SECTION ONE
16 THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER, THAT ISSUES A COMPRE-
17 HENSIVE POLICY THAT UTILIZES A NETWORK OF PROVIDERS AND IS NOT A MANAGED
18 CARE HEALTH INSURANCE CONTRACT AS DEFINED IN SUBSECTION (C) OF SECTION
19 FOUR THOUSAND EIGHT HUNDRED ONE OF THIS CHAPTER, SHALL PROVIDE ACCESS TO
20 OUT-OF-NETWORK SERVICES CONSISTENT WITH THE REQUIREMENTS OF SUBSECTION
21 (A) OF SECTION FOUR THOUSAND EIGHT HUNDRED FOUR OF THIS CHAPTER,
22 SUBSECTIONS (G-6) AND (G-7) OF SECTION FOUR THOUSAND NINE HUNDRED OF
23 THIS CHAPTER, SUBSECTIONS (A-1) AND (A-2) OF SECTION FOUR THOUSAND NINE
24 HUNDRED FOUR OF THIS CHAPTER, PARAGRAPHS THREE AND FOUR OF SUBSECTION
25 (B) OF SECTION FOUR THOUSAND NINE HUNDRED TEN OF THIS CHAPTER, AND
26 SUBPARAGRAPHS (C) AND (D) OF PARAGRAPH FOUR OF SUBSECTION (B) OF SECTION
27 FOUR THOUSAND NINE HUNDRED FOURTEEN OF THIS CHAPTER.

28 S 8. Paragraphs 11, 12, 13, 14, 16-a, 17, and 18 of subsection (a) of
29 section 4324 of the insurance law, paragraphs 11, 12, 13, 14, 17 and 18
30 as added by chapter 705 of the laws of 1996, paragraph 16-a as added by
31 chapter 554 of the laws of 2002, are amended and three new paragraphs
32 19, 20 and 21 are added to read as follows:

33 (11) where applicable, notice that a subscriber enrolled in a managed
34 care product OR IN A COMPREHENSIVE CONTRACT THAT UTILIZES A NETWORK OF
35 PROVIDERS offered by the corporation may obtain a referral [to] OR
36 PREAUTHORIZATION FOR a health care provider outside of the corporation's
37 network or panel when the corporation does not have a health care
38 provider [with] WHO IS GEOGRAPHICALLY ACCESSIBLE TO THE INSURED AND WHO
39 HAS THE appropriate ESSENTIAL LEVEL OF training and experience in the
40 network or panel to meet the particular health care needs of the
41 subscriber and the procedure by which the subscriber can obtain such
42 referral OR PREAUTHORIZATION;

43 (12) where applicable, notice that a subscriber enrolled in a managed
44 care product OR A COMPREHENSIVE CONTRACT THAT UTILIZES A NETWORK OF
45 PROVIDERS offered by the corporation with a condition which requires
46 ongoing care from a specialist may request a standing referral to such a
47 specialist and the procedure for requesting and obtaining such a stand-
48 ing referral;

49 (13) where applicable, notice that a subscriber enrolled in a managed
50 care product OR A COMPREHENSIVE CONTRACT THAT UTILIZES A NETWORK OF
51 PROVIDERS offered by the corporation with (i) a life-threatening condi-
52 tion or disease, or (ii) a degenerative and disabling condition or
53 disease, either of which requires specialized medical care over a
54 prolonged period of time may request a specialist responsible for
55 providing or coordinating the subscriber's medical care and the proce-
56 dure for requesting and obtaining such a specialist;

1 (14) where applicable, notice that a subscriber enrolled in a managed
2 care product OR A COMPREHENSIVE CONTRACT THAT UTILIZES A NETWORK OF
3 PROVIDERS offered by the corporation with [(i)] (A) a life-threatening
4 condition or disease, or [(ii)] (B) a degenerative and disabling condi-
5 tion or disease, either of which requires specialized medical care over
6 a prolonged period of time may request access to a specialty care center
7 and the procedure by which such access may be obtained;

8 (16-a) where applicable, notice that an enrollee shall have direct
9 access to primary and preventive obstetric and gynecologic services,
10 INCLUDING ANNUAL EXAMINATIONS, CARE RESULTING FROM SUCH ANNUAL EXAMINA-
11 TIONS, AND TREATMENT OF ACUTE GYNECOLOGIC CONDITIONS, from a qualified
12 provider of such services of her choice from within the plan [for no
13 fewer than two examinations annually for such services] or [to] FOR any
14 care related to A pregnancy [and that additionally, the enrollee shall
15 have direct access to primary and preventive obstetric and gynecologic
16 services required as a result of such annual examinations or as a result
17 of an acute gynecologic condition];

18 (17) where applicable, a listing by specialty, which may be in a sepa-
19 rate document that is updated annually, of the name, address, and tele-
20 phone number of all participating providers, including facilities, and
21 in addition, in the case of physicians, board certification[; and],
22 LANGUAGES SPOKEN AND ANY AFFILIATIONS WITH PARTICIPATING HOSPITALS. THE
23 LISTING SHALL ALSO BE POSTED ON THE CORPORATION'S WEBSITE AND THE CORPO-
24 RATION SHALL UPDATE THE WEBSITE WITHIN FIFTEEN DAYS OF THE ADDITION OR
25 TERMINATION OF A PROVIDER FROM THE CORPORATION'S NETWORK OR A CHANGE IN
26 A PHYSICIAN'S HOSPITAL AFFILIATION;

27 (18) a description of the mechanisms by which subscribers may partic-
28 ipate in the development of the policies of the corporation[.];

29 (19) A DESCRIPTION OF THE METHOD BY WHICH A SUBSCRIBER MAY SUBMIT A
30 CLAIM FOR HEALTH CARE SERVICES;

31 (20) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE:

32 (A) A CLEAR DESCRIPTION OF THE METHODOLOGY USED BY THE CORPORATION TO
33 DETERMINE REIMBURSEMENT FOR OUT-OF-NETWORK HEALTH CARE SERVICES;

34 (B) A DESCRIPTION OF THE AMOUNT THAT THE CORPORATION WILL REIMBURSE
35 UNDER THE METHODOLOGY FOR OUT-OF-NETWORK HEALTH CARE SERVICES SET FORTH
36 AS A PERCENTAGE OF THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK
37 HEALTH CARE SERVICES; AND

38 (C) EXAMPLES OF ANTICIPATED OUT-OF-POCKET COSTS FOR FREQUENTLY BILLED
39 OUT-OF-NETWORK HEALTH CARE SERVICES; AND

40 (21) INFORMATION IN WRITING AND THROUGH AN INTERNET WEBSITE THAT
41 REASONABLY PERMITS A SUBSCRIBER OR PROSPECTIVE SUBSCRIBER TO DETERMINE
42 THE ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE
43 SERVICES IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE
44 BETWEEN WHAT THE CORPORATION WILL REIMBURSE FOR OUT-OF-NETWORK HEALTH
45 CARE SERVICES AND THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK HEALTH
46 CARE SERVICES.

47 S 9. Paragraphs 11 and 12 of subsection (b) of section 4324 of the
48 insurance law, as added by chapter 705 of the laws of 1996, are amended
49 and two new paragraphs 13 and 14 are added to read as follows:

50 (11) where applicable, provide the written application procedures and
51 minimum qualification requirements for health care providers to be
52 considered by the corporation for participation in the corporation's
53 network for a managed care product; [and]

54 (12) disclose such other information as required by the superinten-
55 dent, provided that such requirements are promulgated pursuant to the
56 state administrative procedure act[.];

1 (13) DISCLOSE WHETHER A HEALTH CARE PROVIDER SCHEDULED TO PROVIDE A
2 HEALTH CARE SERVICE IS AN IN-NETWORK PROVIDER; AND

3 (14) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE,
4 DISCLOSE THE DOLLAR AMOUNT THAT THE CORPORATION WILL PAY FOR A SPECIFIC
5 OUT-OF-NETWORK HEALTH CARE SERVICE.

6 S 10. Section 4324 of the insurance law is amended by adding a new
7 subsection (f) to read as follows:

8 (F) FOR PURPOSES OF THIS SECTION, "USUAL AND CUSTOMARY COST" SHALL
9 MEAN THE EIGHTIETH PERCENTILE OF ALL CHARGES FOR THE PARTICULAR HEALTH
10 CARE SERVICE PERFORMED BY A PROVIDER IN THE SAME OR SIMILAR SPECIALTY
11 AND PROVIDED IN THE SAME GEOGRAPHICAL AREA AS REPORTED IN A BENCHMARKING
12 DATABASE MAINTAINED BY A NONPROFIT ORGANIZATION SPECIFIED BY THE SUPER-
13 INTENDENT. THE NONPROFIT ORGANIZATION SHALL NOT BE AFFILIATED WITH AN
14 INSURER, A CORPORATION SUBJECT TO THIS ARTICLE, A MUNICIPAL COOPERATIVE
15 HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS
16 CHAPTER, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO
17 ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

18 S 10-a. Subsection (a) of section 4804 of the insurance law, as added
19 by chapter 705 of the laws of 1996, is amended to read as follows:

20 (a) If an insurer offering a managed care product determines that it
21 does not have a health care provider in the in-network benefits portion
22 of its network with appropriate training and experience to meet the
23 particular health care needs of an insured, the insurer shall make a
24 referral to an appropriate provider, pursuant to a treatment plan
25 approved by the insurer in consultation with the primary care provider,
26 the non-participating provider and the insured or the insured's desig-
27 nee, at no additional cost to the insured beyond what the insured would
28 otherwise pay for services received within the network. NOTHING IN THIS
29 SUBSECTION SHALL BE CONSTRUED TO ENTITLE AN INSURED TO A REFERRAL TO THE
30 INSURED'S PREFERRED PROVIDER, WHERE THAT PROVIDER IS OUT-OF-NETWORK.
31 THE PROVISIONS OF THIS SUBSECTION SHALL ONLY APPLY IF THERE IS NO
32 IN-NETWORK PROVIDER GEOGRAPHICALLY ACCESSIBLE TO THE INSURED WHO HAS THE
33 APPROPRIATE ESSENTIAL LEVEL OF TRAINING AND EXPERIENCE TO MEET THE
34 PARTICULAR NEEDS OF THE INSURED.

35 S 11. Subsection (g-7) of section 4900 of the insurance law is redes-
36 igned subsection (g-8) and a new subsection (g-7) is added to read as
37 follows:

38 (G-7) "OUT-OF-NETWORK REFERRAL DENIAL" MEANS A DENIAL UNDER A MANAGED
39 CARE PRODUCT AS DEFINED IN SUBSECTION (C) OF SECTION FOUR THOUSAND EIGHT
40 HUNDRED ONE OF THIS CHAPTER OF A REQUEST FOR AN AUTHORIZATION OR REFER-
41 RAL TO AN OUT-OF-NETWORK PROVIDER ON THE BASIS THAT THE HEALTH CARE PLAN
42 HAS A HEALTH CARE PROVIDER IN THE IN-NETWORK BENEFITS PORTION OF ITS
43 NETWORK WITH APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR
44 HEALTH CARE NEEDS OF AN INSURED, AND WHO IS ABLE TO PROVIDE THE
45 REQUESTED HEALTH SERVICE. THE NOTICE OF AN OUT-OF-NETWORK REFERRAL
46 DENIAL PROVIDED TO AN INSURED SHALL INCLUDE INFORMATION EXPLAINING WHAT
47 INFORMATION THE INSURED MUST SUBMIT IN ORDER TO APPEAL THE OUT-OF-NET-
48 WORK REFERRAL DENIAL PURSUANT TO SUBSECTION (A-2) OF SECTION FOUR THOU-
49 SAND NINE HUNDRED FOUR OF THIS ARTICLE. AN OUT-OF-NETWORK REFERRAL
50 DENIAL UNDER THIS SUBSECTION DOES NOT CONSTITUTE AN ADVERSE DETERMI-
51 NATION AS DEFINED IN THIS ARTICLE. AN OUT-OF-NETWORK REFERRAL DENIAL
52 SHALL NOT BE CONSTRUED TO INCLUDE AN OUT-OF-NETWORK DENIAL AS DEFINED IN
53 SUBSECTION (G-6) OF THIS SECTION.

54 S 12. Subsection (b) of section 4903 of the insurance law, as amended
55 by chapter 514 of the laws of 2013, is amended to read as follows:

1 (b) A utilization review agent shall make a utilization review deter-
2 mination involving health care services which require pre-authorization
3 and provide notice of a determination to the insured or insured's desig-
4 nee and the insured's health care provider by telephone and in writing
5 within three business days of receipt of the necessary information. To
6 the extent practicable, such written notification to the enrollee's
7 health care provider shall be transmitted electronically, in a manner
8 and in a form agreed upon by the parties. THE NOTIFICATION SHALL IDEN-
9 TIFY: (1) WHETHER THE SERVICES ARE CONSIDERED IN-NETWORK OR OUT-OF-NET-
10 WORK; (2) WHETHER THE INSURED WILL BE HELD HARMLESS FOR THE SERVICES AND
11 NOT BE RESPONSIBLE FOR ANY PAYMENT, OTHER THAN ANY APPLICABLE CO-PAY-
12 MENT, CO-INSURANCE OR DEDUCTIBLE; (3) AS APPLICABLE, THE DOLLAR AMOUNT
13 THE HEALTH CARE PLAN WILL PAY IF THE SERVICE IS OUT-OF-NETWORK; AND (4)
14 AS APPLICABLE, INFORMATION EXPLAINING HOW AN INSURED MAY DETERMINE THE
15 ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE SERVICES
16 IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE BETWEEN
17 WHAT THE HEALTH CARE PLAN WILL REIMBURSE FOR OUT-OF-NETWORK HEALTH CARE
18 SERVICES AND THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK HEALTH CARE
19 SERVICES.

20 S 13. Section 4904 of the insurance law is amended by adding a new
21 subsection (a-2) to read as follows:

22 (A-2) AN INSURED OR THE INSURED'S DESIGNEE MAY APPEAL AN OUT-OF-NET-
23 WORK REFERRAL DENIAL BY A HEALTH CARE PLAN BY SUBMITTING A WRITTEN
24 STATEMENT FROM THE INSURED'S ATTENDING PHYSICIAN, WHO MUST BE A
25 LICENSED, BOARD CERTIFIED OR BOARD ELIGIBLE PHYSICIAN QUALIFIED TO PRAC-
26 TICE IN THE SPECIALTY AREA OF PRACTICE APPROPRIATE TO TREAT THE INSURED
27 FOR THE HEALTH SERVICE SOUGHT, PROVIDED THAT: (1) THE IN-NETWORK HEALTH
28 CARE PROVIDER OR PROVIDERS RECOMMENDED BY THE HEALTH CARE PLAN DO NOT
29 HAVE THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR
30 HEALTH CARE NEEDS OF THE INSURED FOR THE HEALTH SERVICE; AND (2) RECOM-
31 MENDS AN OUT-OF-NETWORK PROVIDER WITH THE APPROPRIATE TRAINING AND EXPE-
32 RIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF THE INSURED, AND WHO
33 IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE.

34 S 14. Subsection (b) of section 4910 of the insurance law is amended
35 by adding a new paragraph 4 to read as follows:

36 (4)(A) THE INSURED HAS HAD AN OUT-OF-NETWORK REFERRAL DENIED ON THE
37 GROUNDS THAT THE HEALTH CARE PLAN HAS A HEALTH CARE PROVIDER IN THE
38 IN-NETWORK BENEFITS PORTION OF ITS NETWORK WITH APPROPRIATE TRAINING AND
39 EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN INSURED, AND
40 WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE.

41 (B) THE INSURED'S ATTENDING PHYSICIAN, WHO SHALL BE A LICENSED, BOARD
42 CERTIFIED OR BOARD ELIGIBLE PHYSICIAN QUALIFIED TO PRACTICE IN THE
43 SPECIALTY AREA OF PRACTICE APPROPRIATE TO TREAT THE INSURED FOR THE
44 HEALTH SERVICE SOUGHT, CERTIFIES THAT THE IN-NETWORK HEALTH CARE PROVID-
45 ER OR PROVIDERS RECOMMENDED BY THE HEALTH CARE PLAN DO NOT HAVE THE
46 APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE
47 NEEDS OF AN INSURED, AND RECOMMENDS AN OUT-OF-NETWORK PROVIDER WITH THE
48 APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE
49 NEEDS OF AN INSURED, AND WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH
50 SERVICE.

51 S 15. Paragraph 4 of subsection (b) of section 4914 of the insurance
52 law is amended by adding a new subparagraph (D) to read as follows:

53 (D) FOR EXTERNAL APPEALS REQUESTED PURSUANT TO PARAGRAPH FOUR OF
54 SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED TEN OF THIS TITLE
55 RELATING TO AN OUT-OF-NETWORK REFERRAL DENIAL, THE EXTERNAL APPEAL AGENT
56 SHALL REVIEW THE UTILIZATION REVIEW AGENT'S FINAL ADVERSE DETERMINATION

1 AND, IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE, SHALL MAKE A
2 DETERMINATION AS TO WHETHER THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED
3 BY THE HEALTH PLAN; PROVIDED THAT SUCH DETERMINATION SHALL:

4 (I) BE CONDUCTED ONLY BY ONE OR A GREATER ODD NUMBER OF CLINICAL PEER
5 REVIEWERS;

6 (II) BE ACCOMPANIED BY A WRITTEN STATEMENT:

7 (I) THAT THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED BY THE HEALTH
8 CARE PLAN EITHER WHEN THE REVIEWER OR A MAJORITY OF THE PANEL OF REVIEW-
9 ERS DETERMINES, UPON REVIEW OF THE TRAINING AND EXPERIENCE OF THE
10 IN-NETWORK HEALTH CARE PROVIDER OR PROVIDERS PROPOSED BY THE PLAN, THE
11 TRAINING AND EXPERIENCE OF THE REQUESTED OUT-OF-NETWORK PROVIDER, THE
12 CLINICAL STANDARDS OF THE PLAN, THE INFORMATION PROVIDED CONCERNING THE
13 INSURED, THE ATTENDING PHYSICIAN'S RECOMMENDATION, THE INSURED'S MEDICAL
14 RECORD, AND ANY OTHER PERTINENT INFORMATION, THAT THE HEALTH PLAN DOES
15 NOT HAVE A PROVIDER WITH THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET
16 THE PARTICULAR HEALTH CARE NEEDS OF AN INSURED WHO IS ABLE TO PROVIDE
17 THE REQUESTED HEALTH SERVICE, AND THAT THE OUT-OF-NETWORK PROVIDER HAS
18 THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH
19 CARE NEEDS OF AN INSURED, IS ABLE TO PROVIDE THE REQUESTED HEALTH
20 SERVICE, AND IS LIKELY TO PRODUCE A MORE CLINICALLY BENEFICIAL OUTCOME;
21 OR

22 (II) UPHOLDING THE HEALTH PLAN'S DENIAL OF COVERAGE;

23 (III) BE SUBJECT TO THE TERMS AND CONDITIONS GENERALLY APPLICABLE TO
24 BENEFITS UNDER THE EVIDENCE OF COVERAGE UNDER THE HEALTH CARE PLAN;

25 (IV) BE BINDING ON THE PLAN AND THE INSURED; AND

26 (V) BE ADMISSIBLE IN ANY COURT PROCEEDING.

27 S 16. The public health law is amended by adding a new section 23 to
28 read as follows:

29 S 23. CLAIM FORMS. A PHYSICIAN SHALL INCLUDE A CLAIM FORM FOR A
30 THIRD-PARTY PAYOR WITH A PATIENT BILL FOR HEALTH CARE SERVICES, OTHER
31 THAN A BILL FOR THE PATIENT'S CO-PAYMENT, COINSURANCE OR DEDUCTIBLE.

32 S 17. The public health law is amended by adding a new section 24 to
33 read as follows:

34 S 24. DISCLOSURE. 1. A HEALTH CARE PROFESSIONAL SHALL DISCLOSE TO
35 PATIENTS OR PROSPECTIVE PATIENTS IN WRITING OR THROUGH AN INTERNET
36 WEBSITE THE HEALTH CARE PLANS IN WHICH THE HEALTH CARE PROFESSIONAL IS A
37 PARTICIPATING PROVIDER AND THE HOSPITALS WITH WHICH THE HEALTH CARE
38 PROFESSIONAL IS AFFILIATED PRIOR TO THE PROVISION OF NON-EMERGENCY
39 SERVICES AND VERBALLY AT THE TIME AN APPOINTMENT IS SCHEDULED.

40 2. IF A HEALTH CARE PROFESSIONAL DOES NOT PARTICIPATE IN THE NETWORK
41 OF A PATIENT'S OR PROSPECTIVE PATIENT'S HEALTH CARE PLAN, THE HEALTH
42 CARE PROFESSIONAL SHALL: (A) PRIOR TO THE PROVISION OF NON-EMERGENCY
43 SERVICES, INFORM A PATIENT OR PROSPECTIVE PATIENT THAT THE AMOUNT OR
44 ESTIMATED AMOUNT THE HEALTH CARE PROFESSIONAL WILL BILL THE PATIENT FOR
45 HEALTH CARE SERVICES IS AVAILABLE UPON REQUEST; AND (B) UPON RECEIPT OF
46 A REQUEST FROM A PATIENT OR PROSPECTIVE PATIENT, DISCLOSE TO THE PATIENT
47 OR PROSPECTIVE PATIENT IN WRITING THE AMOUNT OR ESTIMATED AMOUNT THE
48 HEALTH CARE PROFESSIONAL WILL BILL THE PATIENT OR PROSPECTIVE PATIENT
49 FOR HEALTH CARE SERVICES PROVIDED OR ANTICIPATED TO BE PROVIDED TO THE
50 PATIENT OR PROSPECTIVE PATIENT ABSENT UNFORESEEN MEDICAL CIRCUMSTANCES
51 THAT MAY ARISE WHEN THE HEALTH CARE SERVICES ARE PROVIDED.

52 3. A HEALTH CARE PROFESSIONAL WHO IS A PHYSICIAN SHALL PROVIDE A
53 PATIENT OR PROSPECTIVE PATIENT WITH THE NAME, PRACTICE NAME, MAILING
54 ADDRESS, AND TELEPHONE NUMBER OF ANY HEALTH CARE PROVIDER SCHEDULED TO
55 PERFORM ANESTHESIOLOGY, LABORATORY, PATHOLOGY, RADIOLOGY OR ASSISTANT
56 SURGEON SERVICES IN CONNECTION WITH CARE TO BE PROVIDED IN THE PHYSI-

1 CIAN'S OFFICE FOR THE PATIENT OR COORDINATED OR REFERRED BY THE PHYSI-
2 CIAN FOR THE PATIENT PRIOR TO THE PROVISION OF SERVICES.

3 4. A HEALTH CARE PROFESSIONAL WHO IS A PHYSICIAN SHALL, FOR A
4 PATIENT'S SCHEDULED HOSPITAL ADMISSION OR SCHEDULED OUTPATIENT HOSPITAL
5 SERVICES, PROVIDE A PATIENT AND THE HOSPITAL WITH THE NAME, PRACTICE
6 NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF ANY OTHER PHYSICIAN WHOSE
7 SERVICES WILL BE ARRANGED BY THE PHYSICIAN AND ARE SCHEDULED AT THE TIME
8 OF THE PRE-ADMISSION TESTING, REGISTRATION OR ADMISSION PRIOR TO THE
9 PROVISION OF SERVICES; AND INFORMATION AS TO HOW TO DETERMINE THE
10 HEALTHCARE PLANS IN WHICH THE PHYSICIAN PARTICIPATES.

11 5. A HOSPITAL SHALL ESTABLISH, UPDATE AND MAKE PUBLIC THROUGH POSTING
12 ON THE HOSPITAL'S WEBSITE, TO THE EXTENT REQUIRED BY FEDERAL GUIDELINES,
13 A LIST OF THE HOSPITAL'S STANDARD CHARGES FOR ITEMS AND SERVICES
14 PROVIDED BY THE HOSPITAL, INCLUDING FOR DIAGNOSIS-RELATED GROUPS ESTAB-
15 LISHED UNDER SECTION 1886(D)(4) OF THE FEDERAL SOCIAL SECURITY ACT.

16 6. A HOSPITAL SHALL POST ON THE HOSPITAL'S WEBSITE: (A) THE HEALTH
17 CARE PLANS IN WHICH THE HOSPITAL IS A PARTICIPATING PROVIDER; (B) A
18 STATEMENT THAT (I) PHYSICIAN SERVICES PROVIDED IN THE HOSPITAL ARE NOT
19 INCLUDED IN THE HOSPITAL'S CHARGES; (II) PHYSICIANS WHO PROVIDE SERVICES
20 IN THE HOSPITAL MAY OR MAY NOT PARTICIPATE WITH THE SAME HEALTH CARE
21 PLANS AS THE HOSPITAL, AND; (III) THE PROSPECTIVE PATIENT SHOULD CHECK
22 WITH THE PHYSICIAN ARRANGING FOR THE HOSPITAL SERVICES TO DETERMINE THE
23 HEALTH CARE PLANS IN WHICH THE PHYSICIAN PARTICIPATES; (C) AS APPLICA-
24 BLE, THE NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF THE PHYSICIAN
25 GROUPS THAT THE HOSPITAL HAS CONTRACTED WITH TO PROVIDE SERVICES INCLUD-
26 ING ANESTHESIOLOGY, PATHOLOGY OR RADIOLOGY, AND INSTRUCTIONS HOW TO
27 CONTACT THESE GROUPS TO DETERMINE THE HEALTH CARE PLAN PARTICIPATION OF
28 THE PHYSICIANS IN THESE GROUPS; AND (D) AS APPLICABLE, THE NAME, MAILING
29 ADDRESS, AND TELEPHONE NUMBER OF PHYSICIANS EMPLOYED BY THE HOSPITAL AND
30 WHOSE SERVICES MAY BE PROVIDED AT THE HOSPITAL, AND THE HEALTH CARE
31 PLANS IN WHICH THEY PARTICIPATE.

32 7. IN REGISTRATION OR ADMISSION MATERIALS PROVIDED IN ADVANCE OF NON-
33 EMERGENCY HOSPITAL SERVICES, A HOSPITAL SHALL: (A) ADVISE THE PATIENT OR
34 PROSPECTIVE PATIENT TO CHECK WITH THE PHYSICIAN ARRANGING THE HOSPITAL
35 SERVICES TO DETERMINE: (I) THE NAME, PRACTICE NAME, MAILING ADDRESS AND
36 TELEPHONE NUMBER OF ANY OTHER PHYSICIAN WHOSE SERVICES WILL BE ARRANGED
37 BY THE PHYSICIAN; AND (II) WHETHER THE SERVICES OF PHYSICIANS WHO ARE
38 EMPLOYED OR CONTRACTED BY THE HOSPITAL TO PROVIDE SERVICES INCLUDING
39 ANESTHESIOLOGY, PATHOLOGY AND/OR RADIOLOGY ARE REASONABLY ANTICIPATED TO
40 BE PROVIDED TO THE PATIENT; AND (B) PROVIDE PATIENTS OR PROSPECTIVE
41 PATIENTS WITH INFORMATION AS TO HOW TO TIMELY DETERMINE THE HEALTH CARE
42 PLANS PARTICIPATED IN BY PHYSICIANS WHO ARE REASONABLY ANTICIPATED TO
43 PROVIDE SERVICES TO THE PATIENT AT THE HOSPITAL, AS DETERMINED BY THE
44 PHYSICIAN ARRANGING THE PATIENT'S HOSPITAL SERVICES, AND WHO ARE EMPLOY-
45 EES OF THE HOSPITAL OR CONTRACTED BY THE HOSPITAL TO PROVIDE SERVICES
46 INCLUDING ANESTHESIOLOGY, RADIOLOGY AND/OR PATHOLOGY.

47 8. FOR PURPOSES OF THIS SUBDIVISION:

48 (A) "HEALTH CARE PLAN" MEANS A HEALTH INSURER INCLUDING AN INSURER
49 LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE SUBJECT TO ARTICLE THIR-
50 TY-TWO OF THE INSURANCE LAW; A CORPORATION ORGANIZED PURSUANT TO ARTICLE
51 FORTY-THREE OF THE INSURANCE LAW; A MUNICIPAL COOPERATIVE HEALTH BENEFIT
52 PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW; A
53 HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR
54 OF THIS CHAPTER; A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSU-
55 ANT TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THE INSURANCE LAW
56 OR A SELF-FUNDED EMPLOYEE WELFARE BENEFIT PLAN.

1 (B) "HEALTH CARE PROFESSIONAL" MEANS AN APPROPRIATELY LICENSED, REGIS-
2 TERED OR CERTIFIED HEALTH CARE PROFESSIONAL PURSUANT TO TITLE EIGHT OF
3 THE EDUCATION LAW.

4 S 17-a. Paragraph (a) of subdivision 6 of section 4403 of the public
5 health law, as added by chapter 705 of the laws of 1996, is amended to
6 read as follows:

7 (a) If a health maintenance organization determines that it does not
8 have a health care provider with appropriate training and experience in
9 its panel or network to meet the particular health care needs of an
10 enrollee, the health maintenance organization shall make a referral to
11 an appropriate provider, pursuant to a treatment plan approved by the
12 health maintenance organization in consultation with the primary care
13 provider, the non-participating provider and the enrollee or enrollee's
14 designee, at no additional cost to the enrollee beyond what the enrollee
15 would otherwise pay for services received within the network. NOTHING IN
16 THIS PARAGRAPH SHALL BE CONSTRUED TO ENTITLE AN ENROLLEE TO A REFERRAL
17 TO THE ENROLLEE'S PREFERRED PROVIDER, WHERE THAT PROVIDER IS OUT-OF-NET-
18 WORK. THE PROVISIONS OF THIS PARAGRAPH SHALL ONLY APPLY IF THERE IS NO
19 IN-NETWORK PROVIDER GEOGRAPHICALLY ACCESSIBLE TO THE ENROLLEE WHO HAS
20 THE APPROPRIATE ESSENTIAL LEVEL OF TRAINING AND EXPERIENCE TO MEET THE
21 PARTICULAR NEEDS OF THE ENROLLEE.

22 S 18. Paragraphs (k), (p-1), (q) and (r) of subdivision 1 of section
23 4408 of the public health law, paragraphs (k), (q) and (r) as added by
24 chapter 705 of the laws of 1996, and paragraph (p-1) as added by chapter
25 554 of the laws of 2002, are amended and three new paragraphs (s), (t)
26 and (u) are added to read as follows:

27 (k) notice that an enrollee may obtain a referral to a health care
28 provider outside of the health maintenance organization's network or
29 panel when the health maintenance organization does not have a health
30 care provider [with] WHO IS GEOGRAPHICALLY ACCESSIBLE TO THE ENROLLEE
31 AND WHO HAS appropriate ESSENTIAL LEVEL OF training and experience in
32 the network or panel to meet the particular health care needs of the
33 enrollee and the procedure by which the enrollee can obtain such refer-
34 ral;

35 (p-1) notice that an enrollee shall have direct access to primary and
36 preventive obstetric and gynecologic services, INCLUDING ANNUAL EXAMINA-
37 TIONS, CARE RESULTING FROM SUCH ANNUAL EXAMINATIONS, AND TREATMENT OF
38 ACUTE GYNECOLOGIC CONDITIONS, from a qualified provider of such services
39 of her choice from within the plan [for no fewer than two examinations
40 annually for such services] or [to] FOR any care related to A pregnancy
41 [and that additionally, the enrollee shall have direct access to primary
42 and preventive obstetric and gynecologic services required as a result
43 of such annual examinations or as a result of an acute gynecologic
44 condition];

45 (q) notice of all appropriate mailing addresses and telephone numbers
46 to be utilized by enrollees seeking information or authorization; [and]

47 (r) a listing by specialty, which may be in a separate document that
48 is updated annually, of the name, address and telephone number of all
49 participating providers, including facilities, and, in addition, in the
50 case of physicians, board certification[.], LANGUAGES SPOKEN AND ANY
51 AFFILIATIONS WITH PARTICIPATING HOSPITALS. THE LISTING SHALL ALSO BE
52 POSTED ON THE HEALTH MAINTENANCE ORGANIZATION'S WEBSITE AND THE HEALTH
53 MAINTENANCE ORGANIZATION SHALL UPDATE THE WEBSITE WITHIN FIFTEEN DAYS OF
54 THE ADDITION OR TERMINATION OF A PROVIDER FROM THE HEALTH MAINTENANCE
55 ORGANIZATION'S NETWORK OR A CHANGE IN A PHYSICIAN'S HOSPITAL AFFIL-
56 IATION;

1 (S) WHERE APPLICABLE, A DESCRIPTION OF THE METHOD BY WHICH AN ENROLLEE
2 MAY SUBMIT A CLAIM FOR HEALTH CARE SERVICES;

3 (T) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE:

4 (I) A CLEAR DESCRIPTION OF THE METHODOLOGY USED BY THE HEALTH MAINTENANCE ORGANIZATION TO DETERMINE REIMBURSEMENT FOR OUT-OF-NETWORK HEALTH
5 CARE SERVICES;
6

7 (II) A DESCRIPTION OF THE AMOUNT THAT THE HEALTH MAINTENANCE ORGANIZATION WILL REIMBURSE UNDER THE METHODOLOGY FOR OUT-OF-NETWORK HEALTH CARE
8 SERVICES SET FORTH AS A PERCENTAGE OF THE USUAL AND CUSTOMARY COST FOR
9 OUT-OF-NETWORK HEALTH CARE SERVICES;
10

11 (III) EXAMPLES OF ANTICIPATED OUT-OF-POCKET COSTS FOR FREQUENTLY
12 BILLED OUT-OF-NETWORK HEALTH CARE SERVICES; AND

13 (U) INFORMATION IN WRITING AND THROUGH AN INTERNET WEBSITE THAT
14 REASONABLY PERMITS AN ENROLLEE OR PROSPECTIVE ENROLLEE TO DETERMINE THE
15 ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE SERVICES
16 IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE BETWEEN
17 WHAT THE HEALTH MAINTENANCE ORGANIZATION WILL REIMBURSE FOR OUT-OF-NETWORK HEALTH CARE SERVICES AND THE USUAL AND CUSTOMARY COST FOR
18 OUT-OF-NETWORK HEALTH CARE SERVICES.
19

20 S 19. Paragraphs (k) and (l) of subdivision 2 of section 4408 of the
21 public health law, as added by chapter 705 of the laws of 1996, are
22 amended and two new paragraphs (m) and (n) are added to read as follows:

23 (k) provide the written application procedures and minimum qualification requirements for health care providers to be considered by the
24 health maintenance organization; [and]
25

26 (l) disclose other information as required by the commissioner,
27 provided that such requirements are promulgated pursuant to the state
28 administrative procedure act[.];

29 (M) DISCLOSE WHETHER A HEALTH CARE PROVIDER SCHEDULED TO PROVIDE A
30 HEALTH CARE SERVICE IS AN IN-NETWORK PROVIDER; AND

31 (N) WHERE APPLICABLE, WITH RESPECT TO OUT-OF-NETWORK COVERAGE,
32 DISCLOSE THE DOLLAR AMOUNT THAT THE HEALTH MAINTENANCE ORGANIZATION WILL
33 PAY FOR A SPECIFIC OUT-OF-NETWORK HEALTH CARE SERVICE.

34 S 20. Section 4408 of the public health law is amended by adding a new
35 subdivision 7 to read as follows:

36 7. FOR PURPOSES OF THIS SECTION, "USUAL AND CUSTOMARY COST" SHALL
37 MEAN THE EIGHTIETH PERCENTILE OF ALL CHARGES FOR THE PARTICULAR HEALTH
38 CARE SERVICE PERFORMED BY A PROVIDER IN THE SAME OR SIMILAR SPECIALTY
39 AND PROVIDED IN THE SAME GEOGRAPHICAL AREA AS REPORTED IN A BENCHMARKING
40 DATABASE MAINTAINED BY A NONPROFIT ORGANIZATION SPECIFIED BY THE SUPER-
41 INTENDENT OF FINANCIAL SERVICES. THE NONPROFIT ORGANIZATION SHALL NOT BE
42 AFFILIATED WITH AN INSURER, A CORPORATION SUBJECT TO ARTICLE FORTY-THREE
43 OF THE INSURANCE LAW, A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTI-
44 FIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW, OR A HEALTH
45 MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO THIS ARTICLE.

46 S 21. Subdivision 7-g of section 4900 of the public health law is
47 renumbered subdivision 7-h and a new subdivision 7-g is added to read as
48 follows:

49 7-G. "OUT-OF-NETWORK REFERRAL DENIAL" MEANS A DENIAL OF A REQUEST FOR
50 AN AUTHORIZATION OR REFERRAL TO AN OUT-OF-NETWORK PROVIDER ON THE BASIS
51 THAT THE HEALTH CARE PLAN HAS A HEALTH CARE PROVIDER IN THE IN-NETWORK
52 BENEFITS PORTION OF ITS NETWORK WITH APPROPRIATE TRAINING AND EXPERIENCE
53 TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE, AND WHO IS ABLE
54 TO PROVIDE THE REQUESTED HEALTH SERVICE. THE NOTICE OF AN OUT-OF-NETWORK
55 REFERRAL DENIAL PROVIDED TO AN ENROLLEE SHALL INCLUDE INFORMATION
56 EXPLAINING WHAT INFORMATION THE ENROLLEE MUST SUBMIT IN ORDER TO APPEAL

1 THE OUT-OF-NETWORK REFERRAL DENIAL PURSUANT TO SUBDIVISION ONE-B OF
2 SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE. AN OUT-OF-NET-
3 WORK REFERRAL DENIAL UNDER THIS SUBDIVISION DOES NOT CONSTITUTE AN
4 ADVERSE DETERMINATION AS DEFINED IN THIS ARTICLE. AN OUT-OF-NETWORK
5 REFERRAL DENIAL SHALL NOT BE CONSTRUED TO INCLUDE AN OUT-OF-NETWORK
6 DENIAL AS DEFINED IN SUBDIVISION SEVEN-F OF THIS SECTION.

7 S 22. Subdivision 2 of section 4903 of the public health law, as
8 amended by chapter 514 of the laws of 2013, is amended to read as
9 follows:

10 2. A utilization review agent shall make a utilization review determi-
11 nation involving health care services which require pre-authorization
12 and provide notice of a determination to the enrollee or enrollee's
13 designee and the enrollee's health care provider by telephone and in
14 writing within three business days of receipt of the necessary informa-
15 tion. To the extent practicable, such written notification to the
16 enrollee's health care provider shall be transmitted electronically, in
17 a manner and in a form agreed upon by the parties. THE NOTIFICATION
18 SHALL IDENTIFY; (A) WHETHER THE SERVICES ARE CONSIDERED IN-NETWORK OR
19 OUT-OF-NETWORK; (B) AND WHETHER THE ENROLLEE WILL BE HELD HARMLESS FOR
20 THE SERVICES AND NOT BE RESPONSIBLE FOR ANY PAYMENT, OTHER THAN ANY
21 APPLICABLE CO-PAYMENT OR CO-INSURANCE; (C) AS APPLICABLE, THE DOLLAR
22 AMOUNT THE HEALTH CARE PLAN WILL PAY IF THE SERVICE IS OUT-OF-NETWORK;
23 AND (D) AS APPLICABLE, INFORMATION EXPLAINING HOW AN ENROLLEE MAY DETER-
24 MINE THE ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE
25 SERVICES IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE
26 BETWEEN WHAT THE HEALTH CARE PLAN WILL REIMBURSE FOR OUT-OF-NETWORK
27 HEALTH CARE SERVICES AND THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK
28 HEALTH CARE SERVICES.

29 S 23. Section 4904 of the public health law is amended by adding a new
30 subdivision 1-b to read as follows:

31 1-B. AN ENROLLEE OR THE ENROLLEE'S DESIGNEE MAY APPEAL A DENIAL OF AN
32 OUT-OF-NETWORK REFERRAL BY A HEALTH CARE PLAN BY SUBMITTING A WRITTEN
33 STATEMENT FROM THE ENROLLEE'S ATTENDING PHYSICIAN, WHO MUST BE A
34 LICENSED, BOARD CERTIFIED OR BOARD ELIGIBLE PHYSICIAN QUALIFIED TO PRAC-
35 TICE IN THE SPECIALTY AREA OF PRACTICE APPROPRIATE TO TREAT THE ENROLLEE
36 FOR THE HEALTH SERVICE SOUGHT, PROVIDED THAT: (A) THE IN-NETWORK HEALTH
37 CARE PROVIDER OR PROVIDERS RECOMMENDED BY THE HEALTH CARE PLAN DO NOT
38 HAVE THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR
39 HEALTH CARE NEEDS OF THE ENROLLEE FOR THE HEALTH SERVICE; AND (B) RECOM-
40 MENDS AN OUT-OF-NETWORK PROVIDER WITH THE APPROPRIATE TRAINING AND EXPE-
41 RIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF THE ENROLLEE, AND WHO
42 IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE.

43 S 24. Subdivision 2 of section 4910 of the public health law is
44 amended by adding a new paragraph (d) to read as follows:

45 (D)(I) THE ENROLLEE HAS HAD AN OUT-OF-NETWORK REFERRAL DENIED ON THE
46 GROUNDS THAT THE HEALTH CARE PLAN HAS A HEALTH CARE PROVIDER IN THE
47 IN-NETWORK BENEFITS PORTION OF ITS NETWORK WITH APPROPRIATE TRAINING AND
48 EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE, AND
49 WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE.

50 (II) THE ENROLLEE'S ATTENDING PHYSICIAN, WHO SHALL BE A LICENSED,
51 BOARD CERTIFIED OR BOARD ELIGIBLE PHYSICIAN QUALIFIED TO PRACTICE IN THE
52 SPECIALTY AREA OF PRACTICE APPROPRIATE TO TREAT THE ENROLLEE FOR THE
53 HEALTH SERVICE SOUGHT, CERTIFIES THAT THE IN-NETWORK HEALTH CARE PROVID-
54 ER OR PROVIDERS RECOMMENDED BY THE HEALTH CARE PLAN DO NOT HAVE THE
55 APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE
56 NEEDS OF AN ENROLLEE, AND RECOMMENDS AN OUT-OF-NETWORK PROVIDER WITH THE

1 APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE
2 NEEDS OF AN ENROLLEE, AND WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH
3 SERVICE.

4 S 25. Paragraph (d) of subdivision 2 of section 4914 of the public
5 health law is amended by adding a new subparagraph (D) to read as
6 follows:

7 (D) FOR EXTERNAL APPEALS REQUESTED PURSUANT TO PARAGRAPH (D) OF SUBDI-
8 VISION TWO OF SECTION FOUR THOUSAND NINE HUNDRED TEN OF THIS TITLE
9 RELATING TO AN OUT-OF-NETWORK REFERRAL DENIAL, THE EXTERNAL APPEAL AGENT
10 SHALL REVIEW THE UTILIZATION REVIEW AGENT'S FINAL ADVERSE DETERMINATION
11 AND, IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE, SHALL MAKE A
12 DETERMINATION AS TO WHETHER THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED
13 BY THE HEALTH PLAN; PROVIDED THAT SUCH DETERMINATION SHALL:

14 (I) BE CONDUCTED ONLY BY ONE OR A GREATER ODD NUMBER OF CLINICAL PEER
15 REVIEWERS;

16 (II) BE ACCOMPANIED BY A WRITTEN STATEMENT:

17 (1) THAT THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED BY THE HEALTH
18 CARE PLAN EITHER WHEN THE REVIEWER OR A MAJORITY OF THE PANEL OF REVIEW-
19 ERS DETERMINES, UPON REVIEW OF THE TRAINING AND EXPERIENCE OF THE
20 IN-NETWORK HEALTH CARE PROVIDER OR PROVIDERS PROPOSED BY THE PLAN, THE
21 TRAINING AND EXPERIENCE OF THE REQUESTED OUT-OF-NETWORK PROVIDER, THE
22 CLINICAL STANDARDS OF THE PLAN, THE INFORMATION PROVIDED CONCERNING THE
23 ENROLLEE, THE ATTENDING PHYSICIAN'S RECOMMENDATION, THE ENROLLEE'S
24 MEDICAL RECORD, AND ANY OTHER PERTINENT INFORMATION, THAT THE HEALTH
25 PLAN DOES NOT HAVE A PROVIDER WITH THE APPROPRIATE TRAINING AND EXPERI-
26 ENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE WHO IS ABLE
27 TO PROVIDE THE REQUESTED HEALTH SERVICE, AND THAT THE OUT-OF-NETWORK
28 PROVIDER HAS THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTIC-
29 ULAR HEALTH CARE NEEDS OF AN ENROLLEE, IS ABLE TO PROVIDE THE REQUESTED
30 HEALTH SERVICE, AND IS LIKELY TO PRODUCE A MORE CLINICALLY BENEFICIAL
31 OUTCOME; OR

32 (2) UPHOLDING THE HEALTH PLAN'S DENIAL OF COVERAGE;

33 (III) BE SUBJECT TO THE TERMS AND CONDITIONS GENERALLY APPLICABLE TO
34 BENEFITS UNDER THE EVIDENCE OF COVERAGE UNDER THE HEALTH CARE PLAN;

35 (IV) BE BINDING ON THE PLAN AND THE ENROLLEE; AND

36 (V) BE ADMISSIBLE IN ANY COURT PROCEEDING.

37 S 26. The financial services law is amended by adding a new article 6
38 to read as follows:

39 ARTICLE 6

40 EMERGENCY MEDICAL SERVICES AND SURPRISE BILLS

41 SECTION 601. DISPUTE RESOLUTION PROCESS ESTABLISHED.

42 602. APPLICABILITY.

43 603. DEFINITIONS.

44 604. CRITERIA FOR DETERMINING A REASONABLE FEE.

45 605. DISPUTE RESOLUTION FOR EMERGENCY SERVICES.

46 606. HOLD HARMLESS AND ASSIGNMENT OF BENEFITS FOR SURPRISE BILLS
47 FOR INSUREDS.

48 607. DISPUTE RESOLUTION FOR SURPRISE BILLS.

49 608. PAYMENT FOR INDEPENDENT DISPUTE RESOLUTION ENTITY.

50 S 601. DISPUTE RESOLUTION PROCESS ESTABLISHED. THE SUPERINTENDENT
51 SHALL ESTABLISH A DISPUTE RESOLUTION PROCESS BY WHICH A DISPUTE FOR A
52 BILL FOR EMERGENCY SERVICES OR A SURPRISE BILL MAY BE RESOLVED. THE
53 SUPERINTENDENT SHALL HAVE THE POWER TO GRANT AND REVOKE CERTIFICATIONS
54 OF INDEPENDENT DISPUTE RESOLUTION ENTITIES TO CONDUCT THE DISPUTE RESOL-
55 UTION PROCESS. THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS ESTAB-
56 LISHING STANDARDS FOR THE DISPUTE RESOLUTION PROCESS, INCLUDING A PROC-

1 ESS FOR CERTIFYING AND SELECTING INDEPENDENT DISPUTE RESOLUTION
2 ENTITIES.

3 S 602. APPLICABILITY. THIS ARTICLE SHALL NOT APPLY TO HEALTH CARE
4 SERVICES, INCLUDING EMERGENCY SERVICES, WHERE PHYSICIAN FEES ARE SUBJECT
5 TO SCHEDULES OR OTHER MONETARY LIMITATIONS UNDER ANY OTHER LAW, INCLUD-
6 ING THE WORKERS' COMPENSATION LAW AND ARTICLE FIFTY-ONE OF THE INSURANCE
7 LAW, AND SHALL NOT PREEMPT ANY SUCH LAW.

8 S 603. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

9 (A) "EMERGENCY CONDITION" MEANS A MEDICAL OR BEHAVIORAL CONDITION THAT
10 MANIFESTS ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING
11 SEVERE PAIN, SUCH THAT A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOW-
12 LEDGE OF MEDICINE AND HEALTH, COULD REASONABLY EXPECT THE ABSENCE OF
13 IMMEDIATE MEDICAL ATTENTION TO RESULT IN : (1) PLACING THE HEALTH OF THE
14 PERSON AFFLICTED WITH SUCH CONDITION IN SERIOUS JEOPARDY, OR IN THE CASE
15 OF A BEHAVIORAL CONDITION PLACING THE HEALTH OF SUCH PERSON OR OTHERS IN
16 SERIOUS JEOPARDY; (2) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNC-
17 TIONS; (3) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH
18 PERSON; (4) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR (5) A CONDITION
19 DESCRIBED IN CLAUSE (I), (II) OR (III) OF SECTION 1867(E)(1)(A) OF THE
20 SOCIAL SECURITY ACT 42 U.S.C. S 1395DD.

21 (B) "EMERGENCY SERVICES" MEANS, WITH RESPECT TO AN EMERGENCY CONDI-
22 TION: (1) A MEDICAL SCREENING EXAMINATION AS REQUIRED UNDER SECTION 1867
23 OF THE SOCIAL SECURITY ACT, 42 U.S.C. S 1395DD, WHICH IS WITHIN THE
24 CAPABILITY OF THE EMERGENCY DEPARTMENT OF A HOSPITAL, INCLUDING ANCIL-
25 LARY SERVICES ROUTINELY AVAILABLE TO THE EMERGENCY DEPARTMENT TO EVALU-
26 ATE SUCH EMERGENCY MEDICAL CONDITION; AND (2) WITHIN THE CAPABILITIES OF
27 THE STAFF AND FACILITIES AVAILABLE AT THE HOSPITAL, SUCH FURTHER MEDICAL
28 EXAMINATION AND TREATMENT AS ARE REQUIRED UNDER SECTION 1867 OF THE
29 SOCIAL SECURITY ACT, 42 U.S.C. S 1395DD, TO STABILIZE THE PATIENT.

30 (C) "HEALTH CARE PLAN" MEANS AN INSURER LICENSED TO WRITE ACCIDENT AND
31 HEALTH INSURANCE PURSUANT TO ARTICLE THIRTY-TWO OF THE INSURANCE LAW; A
32 CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE OF THE INSURANCE
33 LAW; A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO
34 ARTICLE FORTY-SEVEN OF THE INSURANCE LAW; A HEALTH MAINTENANCE ORGANIZA-
35 TION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW;
36 OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT TO SECTION
37 ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THE INSURANCE LAW.

38 (D) "INSURED" MEANS A PATIENT COVERED UNDER A HEALTH CARE PLAN'S POLI-
39 CY OR CONTRACT.

40 (E) "NON-PARTICIPATING" MEANS NOT HAVING A CONTRACT WITH A HEALTH CARE
41 PLAN TO PROVIDE HEALTH CARE SERVICES TO AN INSURED.

42 (F) "PARTICIPATING" MEANS HAVING A CONTRACT WITH A HEALTH CARE PLAN TO
43 PROVIDE HEALTH CARE SERVICES TO AN INSURED.

44 (G) "PATIENT" MEANS A PERSON WHO RECEIVES HEALTH CARE SERVICES,
45 INCLUDING EMERGENCY SERVICES, IN THIS STATE.

46 (H) "SURPRISE BILL" MEANS A BILL FOR HEALTH CARE SERVICES, OTHER THAN
47 EMERGENCY SERVICES, RECEIVED BY:

48 (1) AN INSURED FOR SERVICES RENDERED BY A NON-PARTICIPATING PHYSICIAN
49 AT A PARTICIPATING HOSPITAL OR AMBULATORY SURGICAL CENTER, WHERE A
50 PARTICIPATING PHYSICIAN IS UNAVAILABLE AT THE TIME THE HEALTH CARE
51 SERVICES ARE RENDERED; PROVIDED, HOWEVER, THAT A SURPRISE BILL SHALL NOT
52 MEAN A BILL RECEIVED FOR HEALTH CARE SERVICES WHEN A PARTICIPATING
53 PHYSICIAN IS AVAILABLE AND THE INSURED HAS ELECTED TO OBTAIN SERVICES
54 FROM A NON-PARTICIPATING PHYSICIAN; OR

55 (2) A PATIENT WHO IS NOT AN INSURED FOR SERVICES RENDERED BY A PHYSI-
56 CIAN AT A HOSPITAL OR AMBULATORY SURGICAL CENTER, WHERE THE PATIENT HAS

1 NOT TIMELY RECEIVED ALL OF THE DISCLOSURES REQUIRED PURSUANT TO SECTION
2 TWENTY-FOUR OF THE PUBLIC HEALTH LAW.

3 (I) "USUAL AND CUSTOMARY COST" MEANS THE EIGHTIETH PERCENTILE OF ALL
4 CHARGES FOR THE PARTICULAR HEALTH CARE SERVICE PERFORMED BY A PROVIDER
5 IN THE SAME OR SIMILAR SPECIALTY AND PROVIDED IN THE SAME GEOGRAPHICAL
6 AREA AS REPORTED IN A BENCHMARKING DATABASE MAINTAINED BY A NONPROFIT
7 ORGANIZATION SPECIFIED BY THE SUPERINTENDENT. THE NONPROFIT ORGANIZATION
8 SHALL NOT BE AFFILIATED WITH AN INSURER, A CORPORATION SUBJECT TO ARTI-
9 CLE FORTY-THREE OF THE INSURANCE LAW, A MUNICIPAL COOPERATIVE HEALTH
10 BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE
11 LAW, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE
12 FORTY-FOUR OF THE PUBLIC HEALTH LAW.

13 S 604. CRITERIA FOR DETERMINING A REASONABLE FEE. IN DETERMINING THE
14 APPROPRIATE AMOUNT TO PAY FOR A HEALTH CARE SERVICE, AN INDEPENDENT
15 DISPUTE RESOLUTION ENTITY SHALL CONSIDER ALL RELEVANT FACTORS, INCLUD-
16 ING:

17 (A) WHETHER THERE IS A GROSS DISPARITY BETWEEN THE FEE CHARGED BY THE
18 PHYSICIAN FOR SERVICES RENDERED AS COMPARED TO:

19 (1) FEES PAID TO THE INVOLVED PHYSICIAN FOR THE SAME SERVICES RENDERED
20 BY THE PHYSICIAN TO OTHER PATIENTS IN HEALTH CARE PLANS IN WHICH THE
21 PHYSICIAN IS NOT PARTICIPATING, AND

22 (2) IN THE CASE OF A DISPUTE INVOLVING A HEALTH CARE PLAN, FEES PAID
23 BY THE HEALTH CARE PLAN TO REIMBURSE SIMILARLY QUALIFIED PHYSICIANS FOR
24 THE SAME SERVICES IN THE SAME REGION WHO ARE NOT PARTICIPATING WITH THE
25 HEALTH CARE PLAN;

26 (B) THE LEVEL OF TRAINING, EDUCATION AND EXPERIENCE OF THE PHYSICIAN;

27 (C) THE PHYSICIAN'S USUAL CHARGE FOR COMPARABLE SERVICES WITH REGARD
28 TO PATIENTS IN HEALTH CARE PLANS IN WHICH THE PHYSICIAN IS NOT PARTIC-
29 IPATING;

30 (D) THE CIRCUMSTANCES AND COMPLEXITY OF THE PARTICULAR CASE, INCLUDING
31 TIME AND PLACE OF THE SERVICE;

32 (E) INDIVIDUAL PATIENT CHARACTERISTICS; AND

33 (F) THE USUAL AND CUSTOMARY COST OF THE SERVICE.

34 S 605. DISPUTE RESOLUTION FOR EMERGENCY SERVICES. (A) EMERGENCY
35 SERVICES FOR AN INSURED. (1) WHEN A HEALTH CARE PLAN RECEIVES A BILL FOR
36 EMERGENCY SERVICES FROM A NON-PARTICIPATING PHYSICIAN, THE HEALTH CARE
37 PLAN SHALL PAY AN AMOUNT THAT IT DETERMINES IS REASONABLE FOR THE EMER-
38 GENCY SERVICES RENDERED BY THE NON-PARTICIPATING PHYSICIAN, IN ACCORD-
39 ANCE WITH SECTION THREE THOUSAND TWO HUNDRED TWENTY-FOUR-A OF THE INSUR-
40 ANCE LAW, EXCEPT FOR THE INSURED'S CO-PAYMENT, COINSURANCE OR
41 DEDUCTIBLE, IF ANY, AND SHALL ENSURE THAT THE INSURED SHALL INCUR NO
42 GREATER OUT-OF-POCKET COSTS FOR THE EMERGENCY SERVICES THAN THE INSURED
43 WOULD HAVE INCURRED WITH A PARTICIPATING PHYSICIAN PURSUANT TO
44 SUBSECTION (C) OF SECTION THREE THOUSAND TWO HUNDRED FORTY-ONE OF THE
45 INSURANCE LAW.

46 (2) A NON-PARTICIPATING PHYSICIAN OR A HEALTH CARE PLAN MAY SUBMIT A
47 DISPUTE REGARDING A FEE OR PAYMENT FOR EMERGENCY SERVICES FOR REVIEW TO
48 AN INDEPENDENT DISPUTE RESOLUTION ENTITY.

49 (3) IN DETERMINING A REASONABLE FEE FOR THE SERVICES RENDERED, AN
50 INDEPENDENT DISPUTE RESOLUTION ENTITY SHALL SELECT EITHER THE HEALTH
51 CARE PLAN'S PAYMENT OR THE NON-PARTICIPATING PHYSICIAN'S FEE. THE INDE-
52 PENDENT DISPUTE RESOLUTION ENTITY SHALL DETERMINE WHICH AMOUNT TO SELECT
53 BASED UPON THE CONDITIONS AND FACTORS SET FORTH IN SECTION SIX HUNDRED
54 FOUR OF THIS ARTICLE.

55 (B) EMERGENCY SERVICES FOR A PATIENT THAT IS NOT AN INSURED. (1) A
56 PATIENT THAT IS NOT AN INSURED OR THE PATIENT'S PHYSICIAN MAY SUBMIT A

1 DISPUTE REGARDING A FEE FOR EMERGENCY SERVICES FOR REVIEW TO AN INDE-
2 PENDENT DISPUTE RESOLUTION ENTITY UPON APPROVAL OF THE SUPERINTENDENT.

3 (2) AN INDEPENDENT DISPUTE RESOLUTION ENTITY SHALL DETERMINE A REASON-
4 ABLE FEE FOR THE SERVICES BASED UPON THE SAME CONDITIONS AND FACTORS SET
5 FORTH IN SECTION SIX HUNDRED FOUR OF THIS ARTICLE.

6 (3) A PATIENT THAT IS NOT AN INSURED SHALL NOT BE REQUIRED TO PAY THE
7 PHYSICIAN'S FEE IN ORDER TO BE ELIGIBLE TO SUBMIT THE DISPUTE FOR REVIEW
8 TO AN INDEPENDENT DISPUTE RESOLUTION ENTITY.

9 (C) THE DETERMINATION OF AN INDEPENDENT DISPUTE RESOLUTION ENTITY
10 SHALL BE BINDING ON THE HEALTH CARE PLAN, PHYSICIAN AND PATIENT, AND
11 SHALL BE ADMISSIBLE IN ANY COURT PROCEEDING BETWEEN THE HEALTH CARE
12 PLAN, PHYSICIAN OR PATIENT, OR IN ANY ADMINISTRATIVE PROCEEDING BETWEEN
13 THIS STATE AND THE PHYSICIAN.

14 S 606. HOLD HARMLESS AND ASSIGNMENT OF BENEFITS FOR SURPRISE BILLS FOR
15 INSUREDS. WHEN AN INSURED ASSIGNS BENEFITS FOR A SURPRISE BILL IN WRIT-
16 ING TO A NON-PARTICIPATING PHYSICIAN THAT KNOWS THE INSURED IS INSURED
17 UNDER A HEALTH CARE PLAN, THE NON-PARTICIPATING PHYSICIAN SHALL NOT BILL
18 THE INSURED EXCEPT FOR ANY APPLICABLE COPAYMENT, COINSURANCE OR DEDUCT-
19 IBLE THAT WOULD BE OWED IF THE INSURED UTILIZED A PARTICIPATING PHYSI-
20 CIAN.

21 S 607. DISPUTE RESOLUTION FOR SURPRISE BILLS. (A) SURPRISE BILL
22 RECEIVED BY AN INSURED WHO ASSIGNS BENEFITS. (1) IF AN INSURED ASSIGNS
23 BENEFITS TO A NON-PARTICIPATING PHYSICIAN, THE HEALTH CARE PLAN SHALL
24 PAY THE NON-PARTICIPATING PHYSICIAN IN ACCORDANCE WITH PARAGRAPHS TWO
25 AND THREE OF THIS SUBSECTION.

26 (2) THE NON-PARTICIPATING PHYSICIAN MAY BILL THE HEALTH CARE PLAN FOR
27 THE HEALTH CARE SERVICES RENDERED, AND THE HEALTH CARE PLAN SHALL PAY
28 THE NON-PARTICIPATING PHYSICIAN THE BILLED AMOUNT OR ATTEMPT TO NEGOTI-
29 ATE REIMBURSEMENT WITH THE NON-PARTICIPATING PHYSICIAN.

30 (3) IF THE HEALTH CARE PLAN'S ATTEMPTS TO NEGOTIATE REIMBURSEMENT FOR
31 HEALTH CARE SERVICES PROVIDED BY A NON-PARTICIPATING PHYSICIAN DOES NOT
32 RESULT IN A RESOLUTION OF THE PAYMENT DISPUTE BETWEEN THE NON-PARTICI-
33 PATING PHYSICIAN AND THE HEALTH CARE PLAN, THE HEALTH CARE PLAN SHALL
34 PAY THE NON-PARTICIPATING PHYSICIAN AN AMOUNT THE HEALTH CARE PLAN
35 DETERMINES IS REASONABLE FOR THE HEALTH CARE SERVICES RENDERED, EXCEPT
36 FOR THE INSURED'S COPAYMENT, COINSURANCE OR DEDUCTIBLE, IN ACCORDANCE
37 WITH SECTION THREE THOUSAND TWO HUNDRED TWENTY-FOUR-A OF THE INSURANCE
38 LAW.

39 (4) EITHER THE HEALTH CARE PLAN OR THE NON-PARTICIPATING PHYSICIAN MAY
40 SUBMIT THE DISPUTE REGARDING THE SURPRISE BILL FOR REVIEW TO AN INDE-
41 PENDENT DISPUTE RESOLUTION ENTITY, PROVIDED HOWEVER, THE HEALTH CARE
42 PLAN MAY NOT SUBMIT THE DISPUTE UNLESS IT HAS COMPLIED WITH THE REQUIRE-
43 MENTS OF PARAGRAPHS ONE, TWO AND THREE OF THIS SUBSECTION.

44 (5) WHEN DETERMINING A REASONABLE FEE FOR THE SERVICES RENDERED, THE
45 INDEPENDENT DISPUTE RESOLUTION ENTITY SHALL SELECT EITHER THE HEALTH
46 CARE PLAN'S PAYMENT OR THE NON-PARTICIPATING PHYSICIAN'S FEE. AN INDE-
47 PENDENT DISPUTE RESOLUTION ENTITY SHALL DETERMINE WHICH AMOUNT TO SELECT
48 BASED UPON THE CONDITIONS AND FACTORS SET FORTH IN SECTION SIX HUNDRED
49 FOUR OF THIS ARTICLE.

50 (B) SURPRISE BILL RECEIVED BY AN INSURED WHO DOES NOT ASSIGN BENEFITS
51 OR BY A PATIENT WHO IS NOT AN INSURED. (1) AN INSURED WHO DOES NOT
52 ASSIGN BENEFITS IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION OR A
53 PATIENT WHO IS NOT AN INSURED AND WHO RECEIVES A SURPRISE BILL MAY
54 SUBMIT A DISPUTE REGARDING THE SURPRISE BILL FOR REVIEW TO AN INDEPEND-
55 ENT DISPUTE RESOLUTION ENTITY.

1 (2) THE INDEPENDENT DISPUTE RESOLUTION ENTITY SHALL DETERMINE A
2 REASONABLE FEE FOR THE SERVICES RENDERED BASED UPON THE CONDITIONS AND
3 FACTORS SET FORTH IN SECTION SIX HUNDRED FOUR OF THIS ARTICLE.

4 (3) A PATIENT OR INSURED WHO DOES NOT ASSIGN BENEFITS IN ACCORDANCE
5 WITH SUBSECTION (A) OF THIS SECTION SHALL NOT BE REQUIRED TO PAY THE
6 PHYSICIAN'S FEE TO BE ELIGIBLE TO SUBMIT THE DISPUTE FOR REVIEW TO THE
7 INDEPENDENT DISPUTE ENTITY.

8 (C) THE DETERMINATION OF AN INDEPENDENT DISPUTE RESOLUTION ENTITY
9 SHALL BE BINDING ON THE PATIENT, PHYSICIAN AND HEALTH CARE PLAN, AND
10 SHALL BE ADMISSIBLE IN ANY COURT PROCEEDING BETWEEN THE PATIENT OR
11 INSURED, PHYSICIAN OR HEALTH CARE PLAN, OR IN ANY ADMINISTRATIVE
12 PROCEEDING BETWEEN THIS STATE AND THE PHYSICIAN.

13 S 608. PAYMENT FOR INDEPENDENT DISPUTE RESOLUTION ENTITY. (A) FOR
14 DISPUTES INVOLVING AN INSURED, WHEN THE INDEPENDENT DISPUTE RESOLUTION
15 ENTITY DETERMINES THE HEALTH CARE PLAN'S PAYMENT IS REASONABLE, PAYMENT
16 FOR THE DISPUTE RESOLUTION PROCESS SHALL BE THE RESPONSIBILITY OF THE
17 NON-PARTICIPATING PHYSICIAN. WHEN THE INDEPENDENT DISPUTE RESOLUTION
18 ENTITY DETERMINES THE NON-PARTICIPATING PHYSICIAN'S FEE IS REASONABLE,
19 PAYMENT FOR THE DISPUTE RESOLUTION PROCESS SHALL BE THE RESPONSIBILITY
20 OF THE HEALTH CARE PLAN.

21 (B) FOR DISPUTES INVOLVING A PATIENT THAT IS NOT AN INSURED, WHEN THE
22 INDEPENDENT DISPUTE RESOLUTION ENTITY DETERMINES THE PHYSICIAN'S FEE IS
23 REASONABLE, PAYMENT FOR THE DISPUTE RESOLUTION PROCESS SHALL BE THE
24 RESPONSIBILITY OF THE PATIENT UNLESS PAYMENT FOR THE DISPUTE RESOLUTION
25 PROCESS WOULD POSE A HARDSHIP TO THE PATIENT. THE SUPERINTENDENT SHALL
26 PROMULGATE A REGULATION TO DETERMINE PAYMENT FOR THE DISPUTE RESOLUTION
27 PROCESS IN CASES OF HARDSHIP. WHEN THE INDEPENDENT DISPUTE RESOLUTION
28 ENTITY DETERMINES THE PHYSICIAN'S FEE IS UNREASONABLE, PAYMENT FOR THE
29 DISPUTE RESOLUTION PROCESS SHALL BE THE RESPONSIBILITY OF THE PHYSICIAN.

30 S 27. This act shall take effect one year after it shall have become a
31 law, provided, however, that:

32 1. if the amendments by chapter 514 of the laws of 2013 made to
33 subsection (b) of section 4903 of the insurance law and subdivision 2 of
34 section 4903 of the public health law, as amended by sections twelve and
35 twenty-two of this act, respectively, take effect after such date, then
36 sections twelve and twenty-two of this act shall take effect on the same
37 date as chapter 514 of the laws of 2013 takes effect;

38 2. for policies renewed on and after such date this act shall take
39 effect on the renewal date;

40 3. sections twelve, sixteen, seventeen, twenty-two and twenty-six of
41 this act shall apply to health care services provided on and after such
42 date;

43 4. sections eleven, thirteen, fourteen, fifteen, twenty-one, twenty-
44 three, twenty-four and twenty-five of this act shall apply to denials
45 issued on and after such date; and

46 5. effective immediately, the superintendent of financial services may
47 promulgate any regulations necessary for the implementation of the
48 provisions of this act on its effective date, and may certify one or
49 more independent dispute resolution entities.

50 PART V

51 Section 1. The opening paragraph of subsection (k) of section 2101 of
52 the insurance law, as added by chapter 687 of the laws of 2003, is
53 amended to read as follows:

1 In this article, "insurance producer" means an insurance agent, TITLE
2 INSURANCE AGENT, TITLE INSURANCE SOLICITOR, insurance broker, reinsur-
3 ance intermediary, excess lines broker, or any other person required to
4 be licensed under the laws of this state to sell, solicit or negotiate
5 insurance. Such term shall not include:

6 S 2. Paragraph 4 of subsection (k) of section 2101 of the insurance
7 law is REPEALED and paragraphs 5, 6, 7, 8, 9, 10, 11, and 12 are renum-
8 bered paragraphs 4, 5, 6, 7, 8, 9, 10, and 11.

9 S 3. Section 2101 of the insurance law is amended by adding 3 new
10 subsections (y), (z), and (aa) to read as follows:

11 (Y) (1) IN THIS CHAPTER, "TITLE INSURANCE AGENT" MEANS ANY AUTHORIZED
12 OR ACKNOWLEDGED AGENT OF A TITLE INSURANCE CORPORATION, AND ANY SUBAGENT
13 OR OTHER REPRESENTATIVE OF SUCH AN AGENT, WHO OR WHICH FOR COMMISSION,
14 COMPENSATION, OR ANY OTHER THING OF VALUE, PERFORMS THE FOLLOWING ACTS
15 IN CONJUNCTION WITH THE ISSUANCE OF A TITLE INSURANCE POLICY:

16 (A) DETERMINES INSURABILITY OR PREPARES OR ISSUES TITLE INSURANCE
17 COMMITMENTS OR POLICIES, OR BOTH, BASED UPON THE PERFORMANCE OR REVIEW
18 OF A SEARCH; AND

19 (B) PERFORMS ONE OR MORE OF THE FOLLOWING FUNCTIONS:

20 (I) COLLECTS, REMITS OR DISBURSES PREMIUM OR OTHER FUNDS;

21 (II) HANDLES ESCROWS;

22 (III) SELLS, SOLICITS OR NEGOTIATES TITLE INSURANCE BUSINESS; OR

23 (IV) CLOSES TITLE, INCLUDING THE CLEARANCE OF TITLE EXCEPTIONS, IN
24 CONNECTION WITH THE ISSUANCE OF A TITLE INSURANCE POLICY;

25 (2) SUCH TERM SHALL NOT INCLUDE ANY REGULAR SALARIED OFFICER OR
26 EMPLOYEE OF AN AUTHORIZED TITLE INSURANCE CORPORATION OR OF A LICENSED
27 TITLE INSURANCE AGENT, WHO DOES NOT RECEIVE A COMMISSION OR OTHER
28 COMPENSATION FOR SERVICES, WHICH COMMISSION OR OTHER COMPENSATION IS
29 DIRECTLY DEPENDENT UPON THE AMOUNT OF TITLE INSURANCE BUSINESS DONE.

30 (Z) IN THIS CHAPTER, "TITLE INSURANCE CLOSER" MEANS ANY PERSON WHO FOR
31 COMPENSATION OR ANYTHING OF VALUE, REPRESENTS A TITLE INSURANCE CORPO-
32 RATION OR TITLE INSURANCE AGENT AT THE CLOSING OF TITLE, EXCEPT THAT
33 SUCH TERM SHALL NOT INCLUDE:

34 (1) A LICENSED TITLE INSURANCE AGENT; OR

35 (2) ANY REGULAR SALARIED OFFICER OR EMPLOYEE OF AN AUTHORIZED TITLE
36 INSURANCE CORPORATION OR TITLE INSURANCE AGENT WHO DOES NOT RECEIVE A
37 COMMISSION OR OTHER COMPENSATION THAT IS DIRECTLY DEPENDENT UPON THE
38 AMOUNT OF TITLE INSURANCE BUSINESS DONE.

39 (AA) IN THIS CHAPTER, "TITLE INSURANCE SOLICITOR" MEANS ANY PERSON,
40 FIRM, ASSOCIATION OR CORPORATION, WHO OR WHICH, FOR COMPENSATION OR
41 ANYTHING OF VALUE, SOLICITS TITLE INSURANCE ON BEHALF OF A TITLE INSUR-
42 ANCE CORPORATION OR A TITLE INSURANCE AGENT, EXCEPT THAT SUCH TERM SHALL
43 NOT INCLUDE:

44 (1) A LICENSED TITLE INSURANCE AGENT; OR

45 (2) ANY REGULAR SALARIED OFFICER OR EMPLOYEE OF AN AUTHORIZED TITLE
46 INSURANCE CORPORATION OR TITLE INSURANCE AGENT WHO DOES NOT RECEIVE A
47 COMMISSION OR OTHER COMPENSATION THAT IS DIRECTLY DEPENDENT UPON THE
48 AMOUNT OF TITLE INSURANCE BUSINESS DONE.

49 S 4. Subparagraph (A) of paragraph 1 of subsection (a) of section 2102
50 of the insurance law, as amended by section 8 of part I of chapter 61 of
51 the laws of 2011, is amended to read as follows:

52 (A) No person, firm, association or corporation shall act as an insur-
53 ance producer, insurance adjuster [or], life settlement broker OR TITLE
54 INSURANCE CLOSER in this state without having authority to do so by
55 virtue of a license issued and in force pursuant to the provisions of
56 this chapter.

1 S 5. Subsection (a) of section 2109 of the insurance law, paragraph 3
2 as amended by chapter 687 of the laws of 2003, is amended to read as
3 follows:

4 (a) The superintendent may issue a temporary insurance agent's
5 LICENSE, TITLE INSURANCE AGENT'S LICENSE or insurance broker's license,
6 or both AN INSURANCE AGENT'S AND INSURANCE BROKER'S LICENSE, without
7 requiring the applicant to pass a written examination or to satisfy the
8 requirements of subsection (c) of section two thousand one hundred four
9 of this article except as to age, in the case of a license issued pursu-
10 ant to paragraph two [hereof] OF THIS SUBSECTION, in the following
11 cases:

12 (1) in the case of the death of a person who at the time of his death
13 was a licensed accident and health insurance agent under subsection (a)
14 of section two thousand one hundred three of this article, a licensed
15 insurance agent OR LICENSED TITLE INSURANCE AGENT under subsection (b)
16 of such section or a licensed insurance broker:

17 (A) to the executor or administrator of the estate of such deceased
18 agent or broker;

19 (B) to a surviving next of kin of such deceased agent or broker, where
20 no administrator of his estate has been appointed and no executor has
21 qualified under his duly probated will;

22 (C) to the surviving member or members of a firm or association, which
23 at the time of the death of a member was such a licensed insurance
24 agent, LICENSED TITLE INSURANCE AGENT or licensed insurance broker; or

25 (D) to an officer or director of a corporation upon the death of the
26 only officer or director who was qualified as a sub-licensee or to the
27 executor or administrator of the estate of such deceased officer or
28 director;

29 (2) to any person who may be designated by a person licensed pursuant
30 to this chapter as an insurance agent, TITLE INSURANCE AGENT or an
31 insurance broker, or both AN INSURANCE AGENT AND INSURANCE BROKER, and
32 who is absent because of service in any branch of the armed forces of
33 the United States, including a partnership or corporation [which] THAT
34 is licensed pursuant to this chapter as an insurance agent, TITLE INSUR-
35 ANCE AGENT or as an insurance broker, or both AN INSURANCE AGENT AND
36 INSURANCE BROKER, in a case where the sub-licensee or all sub-licensees,
37 if more than one, named in the license or licenses issued to such part-
38 nership or corporation is or are absent because of service in any branch
39 of the armed forces of the United States; and

40 (3) to the next of kin of a person who has become totally disabled and
41 prevented from pursuing any of the duties of his or her occupation, and
42 who at the commencement of his or her disability was a licensed accident
43 and health insurance agent under subsection (a) of section two thousand
44 one hundred three of this article, a licensed insurance agent under
45 subsection (b) of such section, A LICENSED TITLE INSURANCE AGENT or a
46 licensed insurance broker.

47 S 6. Subsection (c) of section 2109 of the insurance law is amended to
48 read as follows:

49 (c) Such license or licenses shall authorize the person or persons
50 named therein to renew the business of the deceased, absent or disabled
51 INSURANCE agent, TITLE INSURANCE AGENT, or INSURANCE broker, or both AN
52 INSURANCE AGENT AND INSURANCE BROKER, as the case may be, or of the firm
53 or, in the case of a license issued pursuant to paragraph one or three
54 of subsection (a) [hereof] OF THIS SECTION, the association whose busi-
55 ness is being continued thereunder, each such agent[,] OR broker[, firm
56 or association] being referred to in this section as "original licen-

1 see", expiring during the period in which such temporary license or
2 licenses are in force, to collect premiums due and payable to the
3 original licensee or, in the case of a license issued pursuant to para-
4 graph one of subsection (a) [hereof] OF THIS SECTION, to his OR HER
5 estate, and to perform such other acts as an insurance agent, A TITLE
6 INSURANCE AGENT or [as] an insurance broker, or both AN INSURANCE AGENT
7 OR INSURANCE BROKER, as the case may be, as are incidental to the
8 continuance of the insurance business of such original licensee.

9 S 7. Section 2109 of the insurance law is amended by adding a new
10 subsection (h) to read as follows:

11 (H) (1) IN THE CASE OF A PERSON SEEKING A TEMPORARY LICENSE TO ACT AS
12 A TITLE INSURANCE AGENT PURSUANT TO SUBSECTION (A) OF THIS SECTION, THE
13 SUPERINTENDENT MAY ISSUE A LICENSE FOR A TERM NOT TO EXCEED ONE HUNDRED
14 EIGHTY DAYS TO SUCH PERSON PROVIDED THE PERSON:

15 (A) DEMONSTRATES TO THE SATISFACTION OF THE SUPERINTENDENT THAT A
16 TITLE INSURANCE CORPORATION IS WILLING TO APPOINT HIM OR HER;

17 (B) SUBMITS TO THE NEXT AVAILABLE TITLE INSURANCE AGENT EXAMINATION;
18 AND

19 (C) DEMONSTRATES TO THE SATISFACTION OF THE SUPERINTENDENT THAT HE OR
20 SHE IS QUALIFIED, COMPETENT, EXPERIENCED AND TRUSTWORTHY TO ACT AS A
21 TITLE INSURANCE AGENT.

22 (2) ANY PERSON ISSUED A LICENSE PURSUANT TO THIS SUBSECTION SHALL, BY
23 VIRTUE OF SUCH LICENSE, BE AUTHORIZED TO SOLICIT, NEGOTIATE OR SELL NEW
24 POLICIES OF TITLE INSURANCE.

25 S 8. The section heading and subsections (a) and (b) of section 2110
26 of the insurance law, as amended by chapter 499 of the laws of 2009,
27 paragraph 15 of subsection (a) as added and paragraphs 16 and 17 of
28 subsection (a) as renumbered by chapter 546 of the laws of 2013, are
29 amended to read as follows:

30 Revocation or suspension of license of insurance producer, insurance
31 consultant, adjuster, TITLE INSURANCE CLOSER, or life settlement broker.

32 (a) The superintendent may refuse to renew, revoke, or may suspend for a
33 period the superintendent determines the license of any insurance
34 producer, insurance consultant, adjuster, TITLE INSURANCE CLOSER or life
35 settlement broker, if, after notice and hearing, the superintendent
36 determines that the licensee or any sub-licensee has:

37 (1) violated any insurance laws, or violated any regulation, subpoena
38 or order of the superintendent or of another state's insurance commis-
39 sioner, or has violated any law in the course of his or her dealings in
40 such capacity;

41 (2) provided materially incorrect, materially misleading, materially
42 incomplete or materially untrue information in the license application;

43 (3) obtained or attempted to obtain a license through misrepresen-
44 tation or fraud;

45 (4) (A) used fraudulent, coercive or dishonest practices;

46 (B) demonstrated incompetence;

47 (C) demonstrated untrustworthiness; or

48 (D) demonstrated financial irresponsibility in the conduct of business
49 in this state or elsewhere;

50 (5) improperly withheld, misappropriated or converted any monies or
51 properties received in the course of business in this state or else-
52 where;

53 (6) intentionally misrepresented the terms of an actual or proposed
54 insurance contract, life settlement contract or application for insur-
55 ance;

56 (7) has been convicted of a felony;

1 (8) admitted or been found to have committed any insurance unfair
2 trade practice or fraud;

3 (9) had an insurance producer license, INSURANCE CONSULTANT LICENSE,
4 ADJUSTER LICENSE, A TITLE INSURANCE CLOSER LICENSE, a life settlement
5 broker license, or its equivalent, denied, suspended or revoked in any
6 other state, province, district or territory;

7 (10) forged another's name to an application for insurance or life
8 settlement contract or to any document related to an insurance or life
9 settlement transaction;

10 (11) improperly used notes or any other reference material to complete
11 an examination for an insurance license or life settlement broker
12 license;

13 (12) knowingly accepted insurance business from an individual who is
14 not licensed;

15 (13) failed to comply with an administrative or court order imposing a
16 child support obligation;

17 (14) failed to pay state income tax or comply with any administrative
18 or court order directing payment of state income tax;

19 (15) while acting as a public adjuster, the licensee has failed to act
20 on behalf and in the best interests of the insured when negotiating for
21 or effecting the settlement of an insurance claim for such insured or
22 otherwise acting as a public adjuster, or has failed to make the disclo-
23 sures required by paragraph two of subsection (s) of section two thou-
24 sand one hundred eight of this article;

25 (16) while acting as a life settlement broker, failed to protect the
26 privacy of the insured or owner or other person for whom the life
27 settlement broker was required to provide protection pursuant to article
28 seventy-eight of this chapter; or

29 (17) ceased to meet the requirements for licensure under this chapter.

30 (b) Before revoking or suspending the license of any insurance produc-
31 er, TITLE INSURANCE CLOSER, life settlement broker or other licensee
32 pursuant to the provisions of this article, the superintendent shall,
33 except when proceeding pursuant to subsection (f) of this section, give
34 notice to the licensee and to every sub-licensee and shall hold, or
35 cause to be held, a hearing not less than ten days after the giving of
36 such notice.

37 S 9. Subsections (a), (b), (c), and (d) of sections 2112 of the insur-
38 ance law, subsection (a) as amended by chapter 540 of the laws of 1996,
39 subsections (b) and (d) as amended by chapter 687 of the laws of 2003
40 and subsection (c) as amended by chapter 647 of the laws of 1992, are
41 amended to read as follows:

42 (a) Every insurer, fraternal benefit society or health maintenance
43 organization doing business in this state shall file a certificate of
44 appointment in such form as the superintendent may prescribe in order to
45 appoint insurance agents, TITLE INSURANCE AGENTS, OR TITLE INSURANCE
46 SOLICITORS to represent such insurer, fraternal benefit society or
47 health maintenance organization; EXCEPT THAT A TITLE INSURANCE AGENT
48 SHALL FILE A CERTIFICATE OF APPOINTMENT IN SUCH FORM AS THE SUPERINTEN-
49 DENT MAY PRESCRIBE IN ORDER TO APPOINT A TITLE INSURANCE SOLICITOR TO
50 ACT ON BEHALF OF SUCH TITLE INSURANCE AGENT.

51 (b) To appoint a producer, the appointing insurer, OR IN THE CASE OF A
52 TITLE INSURANCE SOLICITOR, THE APPOINTING TITLE INSURANCE AGENT OR
53 INSURER, shall file, in a format approved by the superintendent, a
54 notice of appointment within fifteen days from the date the agency
55 contract is executed or the first insurance application is submitted.

1 (c) Certificates of appointment shall be valid until [(i)] (1) termi-
2 nated by the appointing insurer OR TITLE INSURANCE AGENT after a termi-
3 nation in accordance with the provisions of the agency contract; [(ii)]
4 (2) the license is suspended or revoked by the superintendent; or
5 [(iii)] (3) the license expires and is not renewed.

6 (d) Every insurer, fraternal benefit society or health maintenance
7 organization or insurance producer or the authorized representative of
8 the insurer, fraternal benefit society, health maintenance organization
9 or insurance producer doing business in this state shall, upon termi-
10 nation of the certificate of appointment as set forth in subsection (a)
11 of this section of any insurance agent, TITLE INSURANCE AGENT OR TITLE
12 INSURANCE SOLICITOR licensed in this state, or upon termination for
13 cause for activities as set forth in subsection (a) of section two thou-
14 sand one hundred ten of this article, of the certificate of appointment,
15 of employment, of a contract or other insurance business relationship
16 with any insurance producer, file with the superintendent within thirty
17 days a statement, in such form as the superintendent may prescribe, of
18 the facts relative to such termination for cause. The insurer, fraternal
19 benefit society, health maintenance organization, insurance producer or
20 the authorized representative of the insurer, fraternal benefit society,
21 health maintenance organization or insurance producer shall provide,
22 within fifteen days after notification has been sent to the superinten-
23 dent, a copy of the statement filed with the superintendent to the
24 insurance producer at his, or her or its last known address by certified
25 mail, return receipt requested, postage prepaid or by overnight delivery
26 using a nationally recognized carrier. Every statement made pursuant to
27 this subsection shall be deemed a privileged communication.

28 S 10. The insurance law is amended by adding a new section 2113 to
29 read as follows:

30 S 2113. TITLE INSURANCE AGENT, TITLE INSURANCE SOLICITOR, AND TITLE
31 INSURANCE CLOSER; COMMISSIONS. (A) NO INSURER DOING BUSINESS IN THIS
32 STATE, AND NO AGENT OR OTHER REPRESENTATIVE THEREOF, SHALL PAY ANY
33 COMMISSION OR OTHER COMPENSATION TO ANY PERSON, FIRM, ASSOCIATION OR
34 CORPORATION FOR ACTING AS A TITLE INSURANCE AGENT IN THIS STATE, EXCEPT
35 TO A LICENSED TITLE INSURANCE AGENT.

36 (B) NO INSURER DOING BUSINESS IN THIS STATE, AND NO AGENT OR OTHER
37 REPRESENTATIVE THEREOF, SHALL PAY ANY COMPENSATION TO ANY PERSON, FIRM,
38 ASSOCIATION OR CORPORATION FOR ACTING AS A TITLE INSURANCE CLOSER IN
39 THIS STATE, EXCEPT TO A LICENSED TITLE INSURANCE CLOSER.

40 (C) NO INSURER DOING BUSINESS IN THIS STATE, AND NO AGENT OR OTHER
41 REPRESENTATIVE THEREOF, SHALL PAY ANY COMPENSATION TO ANY PERSON, FIRM,
42 ASSOCIATION OR CORPORATION FOR ACTING AS A TITLE INSURANCE SOLICITOR IN
43 THIS STATE, EXCEPT TO A LICENSED TITLE INSURANCE SOLICITOR.

44 (D) AT THE TIME OF THE APPLICATION, A TITLE INSURANCE AGENT SHALL
45 PROVIDE TO EVERY APPLICANT FOR INSURANCE, A WRITTEN GOOD FAITH ESTIMATE
46 OF THE PREMIUM ON THE POLICY OR POLICIES TO BE ISSUED AND A BREAKDOWN OF
47 THE AMOUNT OF ALL FEES AND SERVICE COSTS, INCLUDING ALL FILING FEES AND
48 CLOSING COSTS, AND ANY OTHER ANCILLARY OR DISCRETIONARY CHARGES TO BE
49 INCURRED, AND THE AMOUNT OF ANY COMMISSION OR OTHER COMPENSATION TO BE
50 PAID TO SUCH AGENT BY THE TITLE INSURANCE CORPORATION. IF NO TITLE
51 INSURANCE AGENT IS UTILIZED, THE TITLE INSURER SHALL PROVIDE THE DISCLO-
52 SURES.

53 (E) FOR PURPOSES OF THIS CHAPTER, A TITLE INSURANCE CLOSER SHALL BE
54 DEEMED TO BE THE APPOINTED REPRESENTATIVE OF THE TITLE INSURANCE CORPO-
55 RATION OR TITLE INSURANCE AGENT THAT HAS ENGAGED SUCH TITLE INSURANCE
56 CLOSER FOR THE CLOSING.

1 (F) NOTHING IN THIS CHAPTER SHALL BE DEEMED TO OR BE CONSTRUED IN A
2 MANNER TO AUTHORIZE OR PERMIT ANY ACTIVITY OR PRACTICE, WITH RESPECT TO
3 THE BUSINESS OF TITLE INSURANCE, THAT IS PROHIBITED BY SECTION FOUR
4 HUNDRED EIGHTY-FOUR OR FOUR HUNDRED NINETY-FIVE OF THE JUDICIARY LAW, OR
5 OTHERWISE PROHIBITED BY LAW, INCLUDING THE UNAUTHORIZED PRACTICE OF LAW.

6 (G) NO PERSON OR ENTITY WHO ACTS AS AN AGENT, REPRESENTATIVE, ATTOR-
7 NEY, OR EMPLOYEE OF THE OWNER, LESSEE, OR MORTGAGEE, OR PROSPECTIVE
8 OWNER, LESSEE, OR MORTGAGEE OF THE REAL PROPERTY OR ANY INTEREST THEREIN
9 AND WHO ALSO IS A MEMBER, EMPLOYEE, OR DIRECTOR OF A TITLE INSURANCE
10 AGENT, OWNS ANY INTEREST IN A TITLE INSURANCE AGENT, OR IS A SUBSIDIARY
11 OR AFFILIATE OF ANY TITLE INSURANCE AGENT, SHALL REFER AN APPLICANT FOR
12 INSURANCE TO SUCH AGENT, AND NO SUCH TITLE INSURANCE AGENT SHALL ACCEPT
13 ANY SUCH REFERRAL OF TITLE INSURANCE BUSINESS, UNLESS THE REFERRAL IS
14 MADE IN ACCORDANCE WITH SECTION SIX THOUSAND FOUR HUNDRED NINE OF THIS
15 CHAPTER AND SUCH PERSON OR ENTITY, AT THE TIME OF MAKING A REFERRAL,
16 PROVIDES, AT A MINIMUM, THE FOLLOWING WRITTEN DISCLOSURE TO THE APPLI-
17 CANT:

18 (1) THE NATURE OF THE RELATIONSHIP BETWEEN THE PERSON OR ENTITY AND
19 THE TITLE INSURANCE AGENT;

20 (2) THAT THE PARTY BEING REFERRED IS NOT REQUIRED TO USE THE SERVICES
21 OF THE TITLE INSURANCE AGENT OR THE TITLE INSURANCE CORPORATION TO WHICH
22 THE PARTY IS BEING REFERRED;

23 (3) THAT ANY MONEY OR OTHER THING OF VALUE DIRECTLY OR INDIRECTLY PAID
24 BY THE TITLE INSURANCE AGENT OR TITLE INSURANCE CORPORATION TO THE
25 PERSON OR ENTITY IS BASED ON THE PERSON OR ENTITY'S FINANCIAL INTEREST
26 IN THE TITLE INSURANCE AGENT, AND IS NOT RELATED TO THE AMOUNT OF TITLE
27 INSURANCE BUSINESS THE PERSON OR ENTITY REFERS TO THE TITLE INSURANCE
28 AGENT;

29 (4) THAT THE PERSON OR ENTITY IS NOT REQUIRED TO REFER A SPECIFIED
30 AMOUNT OF TITLE INSURANCE BUSINESS TO THE TITLE INSURANCE AGENCY; AND

31 (5) THE AMOUNT OR VALUE OF ANY COMPENSATION OR OTHER THING OF VALUE
32 THAT THE PERSON OR ENTITY EXPECTS TO RECEIVE IN CONNECTION WITH THE
33 SERVICES TO BE PROVIDED BY THE TITLE INSURANCE AGENT OR THE TITLE INSUR-
34 ANCE CORPORATION TO WHICH THE PARTY IS BEING REFERRED.

35 S 11. The section heading of section 2119 of the insurance law, as
36 amended by chapter 499 of the laws of 2009, is amended and a new
37 subsection (f) is added to read as follows:

38 Insurance agents, brokers, consultants, [and] life settlement brokers,
39 TITLE INSURANCE AGENTS AND TITLE INSURANCE CLOSERS; written contract for
40 compensation; excess charges prohibited.

41 (F) NO TITLE INSURANCE AGENT OR TITLE INSURANCE CLOSER MAY RECEIVE ANY
42 COMPENSATION OR FEE, DIRECT OR INDIRECT, FOR OR ON ACCOUNT OF SERVICES
43 PERFORMED IN CONNECTION WITH THE ISSUANCE OF A TITLE INSURANCE POLICY,
44 UNLESS SUCH COMPENSATION IS: (1) FOR ANCILLARY SERVICES NOT ENCOMPASSED
45 IN THE RATE OF PREMIUM APPROVED BY THE SUPERINTENDENT; AND (2) BASED
46 UPON A WRITTEN MEMORANDUM SIGNED BY THE PARTY TO BE CHARGED, AND SPECI-
47 FYING OR CLEARLY DEFINING THE AMOUNT OR EXTENT OF SUCH COMPENSATION. A
48 COPY OF EVERY SUCH MEMORANDUM SHALL BE RETAINED BY THE LICENSEE FOR NOT
49 LESS THAN THREE YEARS AFTER SUCH SERVICES HAVE BEEN FULLY PERFORMED.

50 S 12. The section heading and subsections (a) and (c) of section 2120
51 of the insurance law are amended to read as follows:

52 Fiduciary capacity of insurance agents, TITLE INSURANCE AGENTS, TITLE
53 INSURANCE CLOSERS, insurance brokers and reinsurance intermediaries. (a)
54 Every insurance agent, TITLE INSURANCE AGENT, TITLE INSURANCE CLOSER,
55 and [every] insurance broker acting as such in this state shall be
56 responsible in a fiduciary capacity for all funds received or collected

1 as insurance agent or insurance broker, and shall not, without the
2 express consent of his, HER or its principal, mingle any such funds with
3 his, HER or its own funds or with funds held by him, HER or it in any
4 other capacity.

5 (c) This section shall not require any such INSURANCE agent, TITLE
6 INSURANCE AGENT, TITLE INSURANCE CLOSER, INSURANCE broker or reinsurance
7 intermediary to maintain a separate bank deposit for the funds of each
8 such principal, if and as long as the funds so held for each such prin-
9 cipal are reasonably ascertainable from the books of account and records
10 of such agent, broker or reinsurance intermediary, as the case may be.

11 S 13. The section heading and subsection (a) of section 2122 of the
12 insurance law are amended to read as follows:

13 Advertising by insurance [agents and brokers] PRODUCERS. (a) (1) No
14 insurance [agent or insurance broker] PRODUCER shall make or issue in
15 this state any advertisement, sign, pamphlet, circular, card or other
16 public announcement purporting to make known the financial condition of
17 any insurer, unless the same shall conform to the requirements of
18 section one thousand three hundred thirteen of this chapter.

19 (2) No insurance [agent, insurance broker] PRODUCER or other person,
20 shall, by any advertisement or public announcement in this state, call
21 attention to any unauthorized insurer or insurers.

22 S 14. Subsections (a) and (b) of section 2128 of the insurance law,
23 subsection (b) as further amended by section 104 of part A of chapter 62
24 of the laws of 2011, are amended to read as follows:

25 (a) Notwithstanding the provisions of sections two thousand three
26 hundred twenty-four and four thousand two hundred twenty-four of this
27 chapter, no [insurance agent, insurance broker, insurance consultant,
28 excess line broker, reinsurance intermediary or insurance adjuster]
29 LICENSEE SUBJECT TO THIS ARTICLE shall receive any commissions or fees
30 or shares thereof in connection with insurance coverages placed for or
31 insurance services rendered to the state, its agencies and departments,
32 public benefit corporations, municipalities and other governmental
33 subdivisions in this state, unless such [insurance agent, insurance
34 broker, insurance consultant, excess line broker, reinsurance interme-
35 diary or insurance adjuster] LICENSEE actually placed insurance cover-
36 ages on behalf of or rendered insurance services to the state, its agen-
37 cies and departments, public benefit corporations, municipalities and
38 other governmental subdivisions in this state.

39 (b) The superintendent shall, by regulation, require [insurance
40 agents, insurance brokers, insurance consultants, excess line brokers,
41 reinsurance intermediaries and insurance adjusters] LICENSEES SUBJECT TO
42 THIS ARTICLE to file disclosure statements with the department of finan-
43 cial services and the most senior official of the governmental unit
44 involved, with respect to any insurance coverages placed for or insur-
45 ance services rendered to the state, its agencies and departments,
46 public benefit corporations, municipalities and other governmental
47 subdivisions in this state, EXCEPT THAT NEITHER A TITLE INSURANCE CORPO-
48 RATION NOR A TITLE INSURANCE AGENT SHALL BE REQUIRED TO FILE A DISCLO-
49 SURE STATEMENT IF AN INDUSTRIAL DEVELOPMENT AGENCY, STATE OF NEW YORK
50 MORTGAGE AGENCY OR ITS SUCCESSOR, OR ANY SIMILAR TYPE OF ENTITY, IS THE
51 NAMED INSURED UNDER THE POLICY AND IS A MORTGAGEE WITH RESPECT TO THE
52 PROPERTY INSURED.

53 S 15. Subsections (a) and (b) of section 2132 of the insurance law, as
54 amended by chapter 499 of the laws of 2009, are amended to read as
55 follows:

1 (a) This section shall apply to resident and non-resident persons
2 licensed pursuant to this article with respect to:

3 (1) life insurance, annuity contracts, variable annuity contracts and
4 variable life insurance;

5 (2) sickness, accident and health insurance;

6 (3) all lines of property and casualty insurance; [and]

7 (4) life settlements[.]; AND

8 (5) TITLE INSURANCE.

9 (b) This section shall not apply to:

10 (1) those persons holding licenses for which an examination is not
11 required by the laws of this state;

12 (2) any limited licensees or any other licensees as the superintendent
13 may exempt subject to any continuing education requirements deemed
14 appropriate by the superintendent; [or]

15 (3) for purposes of the continuing education requirements for life
16 settlements, an insurance producer with a life line of authority who is
17 acting as a life settlement broker pursuant to section two thousand one
18 hundred thirty-seven of this article; OR

19 (4) FOR PURPOSES OF A TITLE INSURANCE AGENT LICENSE, AN ATTORNEY
20 LICENSED TO PRACTICE LAW IN THIS STATE.

21 S 16. The insurance law is amended by adding a new section 2139 to
22 read as follows:

23 S 2139. FINGERPRINTING. (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B)
24 OF THIS SECTION, THE SUPERINTENDENT MAY REQUIRE ANY INDIVIDUAL NAMED IN
25 AN APPLICATION FOR A LICENSE UNDER SECTION TWO THOUSAND ONE HUNDRED
26 FORTY, TWO THOUSAND ONE HUNDRED FORTY-ONE, OR TWO THOUSAND ONE HUNDRED
27 FORTY-TWO OF THIS ARTICLE TO SUBMIT A SET OF FINGERPRINTS. SUCH FINGER-
28 PRINTS SHALL BE SUBMITTED TO THE DIVISION OF CRIMINAL JUSTICE SERVICES
29 FOR A STATE CRIMINAL HISTORY RECORD CHECK, AND MAY BE SUBMITTED TO THE
30 FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD
31 CHECK. ALL SUCH CRIMINAL HISTORY RECORDS MADE AVAILABLE TO THE SUPER-
32 INTENDENT PURSUANT TO THIS SECTION SHALL BE CONFIDENTIAL PURSUANT TO THE
33 APPLICABLE FEDERAL AND STATE LAWS, RULES AND REGULATIONS, AND SHALL NOT
34 BE PUBLISHED OR IN ANY WAY DISCLOSED TO PERSONS OTHER THAN THE SUPER-
35 INTENDENT, UNLESS OTHERWISE AUTHORIZED BY LAW.

36 (2) THE SUPERINTENDENT SHALL INFORM SUCH APPLICANT THAT HE OR SHE MAY
37 OBTAIN A COPY OF HIS OR HER CRIMINAL HISTORY RECORD MAINTAINED BY THE
38 DIVISION OF CRIMINAL JUSTICE SERVICES, IF ANY, AND MAY CHALLENGE THE
39 COMPLETENESS OR ACCURACY OF THE INFORMATION CONTAINED IN SUCH RECORD,
40 PURSUANT TO REGULATIONS AND PROCEDURES ESTABLISHED BY THE DIVISION OF
41 CRIMINAL JUSTICE SERVICES.

42 (3) ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR LICENSURE PURSU-
43 ANT TO THIS SECTION SHALL BE IN ACCORDANCE WITH SUBDIVISION SIXTEEN OF
44 SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW AND ARTICLE TWENTY-
45 THREE-A OF THE CORRECTION LAW. WHEN THE SUPERINTENDENT DENIES AN APPLI-
46 CATION, WRITTEN NOTICE OF SUCH DETERMINATION SHALL BE GIVEN TO THE
47 PROSPECTIVE APPLICANT WHO SHALL BE AFFORDED NOTICE AND THE RIGHT TO BE
48 HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION.

49 (B) THE SUPERINTENDENT SHALL WAIVE THE FINGERPRINTING REQUIREMENT FOR
50 A NONRESIDENT PRODUCER LICENSE APPLICANT AS PROVIDED IN SECTION TWO
51 THOUSAND ONE HUNDRED THIRTY-SIX OF THIS ARTICLE.

52 S 17. The insurance law is amended by adding a new section 2140 to
53 read as follows:

54 S 2140. TITLE INSURANCE AGENTS; LICENSING. (A) THE SUPERINTENDENT MAY
55 ISSUE A LICENSE TO ANY PERSON, FIRM, ASSOCIATION OR CORPORATION THAT HAS
56 COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER, AUTHORIZING THE LICENSEE

1 TO ACT AS A TITLE INSURANCE AGENT OF ANY AUTHORIZED TITLE INSURANCE
2 CORPORATION, PROVIDED THAT SUCH TITLE INSURANCE AGENT DEMONSTRATES
3 FINANCIAL ACCOUNTABILITY AS EVIDENCED BY A BOND OR OTHER METHOD OF
4 FINANCIAL ACCOUNTABILITY IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND
5 DOLLARS.

6 (B) ANY SUCH LICENSE ISSUED TO A FIRM OR ASSOCIATION SHALL AUTHORIZE
7 ONLY THE MEMBERS THEREOF, NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT
8 INDIVIDUALLY AS TITLE INSURANCE AGENTS THEREUNDER, AND ANY SUCH LICENSE
9 ISSUED TO A CORPORATION SHALL AUTHORIZE ONLY THE OFFICERS AND DIRECTORS
10 THEREOF, NAMED IN SUCH LICENSE AS SUB-LICENSEES, TO ACT INDIVIDUALLY AS
11 TITLE INSURANCE AGENTS THEREUNDER. EVERY SUB-LICENSEE ACTING AS TITLE
12 INSURANCE AGENT PURSUANT TO SUCH A LICENSE SHALL BE AUTHORIZED SO TO ACT
13 ONLY IN THE NAME OF THE LICENSEE. IN THE CASE OF A LICENSE ISSUED TO A
14 TITLE INSURANCE AGENT, AT LEAST ONE DESIGNATED SUB-LICENSEE MUST HAVE A
15 FINANCIAL OR OTHER BENEFICIAL INTEREST IN THE LICENSEE.

16 (C) EVERY INDIVIDUAL APPLICANT FOR A LICENSE UNDER THIS SECTION AND
17 EVERY PROPOSED LICENSEE SHALL BE EIGHTEEN YEARS OF AGE OR OLDER AT THE
18 TIME OF THE ISSUANCE OF SUCH LICENSE.

19 (D) BEFORE ANY ORIGINAL TITLE INSURANCE AGENT'S LICENSE IS ISSUED,
20 THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICA-
21 TION BY THE PROSPECTIVE LICENSEE IN SUCH FORM OR FORMS AND SUPPLEMENTS
22 THERETO, ALONG WITH A FEE IN THE AMOUNT OF FORTY DOLLARS FOR EACH YEAR
23 OR FRACTION OF A YEAR IN WHICH THE LICENSE SHALL BE VALID, AND CONTAIN-
24 ING INFORMATION THE SUPERINTENDENT PRESCRIBES.

25 (E) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF
26 EVERY INDIVIDUAL APPLICANT AND OF EVERY PROPOSED SUB-LICENSEE FOR THE
27 TITLE INSURANCE AGENT LICENSE, REQUIRE SUCH INDIVIDUAL TO SUBMIT TO A
28 PERSONAL WRITTEN EXAMINATION AND TO PASS THE SAME TO THE SATISFACTION OF
29 THE SUPERINTENDENT. THE EXAMINATION SHALL BE HELD AT SUCH TIMES AND
30 PLACES AS THE SUPERINTENDENT SHALL FROM TIME TO TIME DETERMINE. EVERY
31 INDIVIDUAL APPLYING TO TAKE ANY WRITTEN EXAMINATION SHALL, AT THE TIME
32 OF APPLYING THEREFOR, PAY TO THE SUPERINTENDENT OR, AT THE DISCRETION OF
33 THE SUPERINTENDENT, DIRECTLY TO ANY ORGANIZATION THAT IS UNDER CONTRACT
34 TO PROVIDE EXAMINATION SERVICES, AN EXAMINATION FEE OF AN AMOUNT THAT IS
35 THE ACTUAL DOCUMENTED ADMINISTRATIVE COST OF CONDUCTING SAID QUALIFYING
36 EXAMINATION AS CERTIFIED BY THE SUPERINTENDENT FROM TIME TO TIME. AN
37 EXAMINATION FEE REPRESENTS AN ADMINISTRATIVE EXPENSE AND SHALL NOT BE
38 REFUNDABLE. THE SUPERINTENDENT MAY ACCEPT, IN LIEU OF ANY SUCH EXAMINA-
39 TION, THE RESULT OF ANY PREVIOUS WRITTEN EXAMINATION, GIVEN BY THE
40 SUPERINTENDENT, WHICH IN THE SUPERINTENDENT'S JUDGMENT, IS EQUIVALENT TO
41 THE EXAMINATION FOR WHICH IT IS SUBSTITUTED.

42 (F) EVERY INDIVIDUAL SEEKING TO QUALIFY TO OBTAIN A LICENSE UNDER
43 SUBSECTION (B) OF THIS SECTION SHALL BE REQUIRED TO PASS THE TYPE OR
44 TYPES OF EXAMINATION PRESCRIBED BY THE SUPERINTENDENT. AN INDIVIDUAL
45 SHALL NOT BE DEEMED QUALIFIED TO TAKE THE EXAMINATION UNLESS THE INDI-
46 VIDUAL HAS SUCCESSFULLY COMPLETED A COURSE OR COURSES, APPROVED AS TO
47 METHOD AND CONTENT BY THE SUPERINTENDENT, COVERING THE TITLE INSURANCE
48 BUSINESS AND REQUIRING NOT LESS THAN TWENTY HOURS OF CLASSROOM WORK, IN
49 INSTITUTIONS OF LEARNING MEETING THE STANDARDS PRESCRIBED BY PARAGRAPH
50 ONE OF SUBSECTION (A) OF SECTION TWO THOUSAND ONE HUNDRED FOUR OF THIS
51 ARTICLE.

52 (G) NO SUCH WRITTEN EXAMINATION OR PRE-LICENSING EDUCATION SHALL BE
53 REQUIRED OF ANY:

54 (1) APPLICANT WHO FILES AN APPLICATION UNDER THIS SECTION WITHIN ONE
55 YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION AND WHO DEMONSTRATES TO
56 THE SATISFACTION OF THE SUPERINTENDENT THAT SUCH APPLICANT OR ITS

1 PROSPECTIVE SUB-LICENSEE HAS, WITHOUT INTERRUPTION, REGULARLY AND
2 CONTINUOUSLY PERFORMED THE FUNCTIONS OF A TITLE INSURANCE AGENT FOR A
3 PERIOD OF AT LEAST FIVE YEARS IMMEDIATELY PRECEDING THE FILING OF SUCH
4 APPLICATION AND IS COMPETENT AND TRUSTWORTHY TO ACT AS A TITLE INSURANCE
5 AGENT;

6 (2) APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY THE
7 SUPERINTENDENT FOR A TITLE INSURANCE AGENT'S LICENSE AND WAS LICENSED AS
8 SUCH, OR OF AN APPLICANT WHO WAS LICENSED AS A TITLE INSURANCE AGENT BUT
9 DID NOT PASS SUCH AN EXAMINATION, PROVIDED THE APPLICANT APPLIES WITHIN
10 TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE APPLICANT'S LICENSE;
11 OR

12 (3) APPLICANT SEEKING TO OBTAIN A LICENSE AS A TITLE INSURANCE AGENT,
13 WHEN SUCH APPLICANT IS A LICENSED ATTORNEY-AT-LAW IN THIS STATE.

14 (H) THE SUPERINTENDENT MAY REFUSE TO ISSUE TO AN APPLICANT A TITLE
15 INSURANCE AGENT'S LICENSE IF, IN THE SUPERINTENDENT'S JUDGMENT, THE
16 PROPOSED LICENSEE OR ANY SUB-LICENSEE:

17 (1) IS NOT TRUSTWORTHY AND COMPETENT TO ACT AS SUCH AGENT;

18 (2) HAS GIVEN CAUSE FOR THE REVOCATION OR SUSPENSION OF SUCH A
19 LICENSE; OR

20 (3) HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSUANCE OF
21 SUCH LICENSE.

22 (I) (1) EVERY LICENSE ISSUED TO A BUSINESS ENTITY PURSUANT TO
23 SUBSECTION (A) OF THIS SECTION SHALL EXPIRE ON JUNE THIRTIETH OF
24 ODD-NUMBERED YEARS.

25 (2) EVERY LICENSE ISSUED TO AN INDIVIDUAL BORN IN AN ODD-NUMBERED YEAR
26 SHALL EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH ODD-NUMBERED YEAR.
27 LICENSES ISSUED TO INDIVIDUALS BORN IN EVEN-NUMBERED YEARS SHALL EXPIRE
28 ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR.

29 (3) EVERY LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR
30 MONTHS UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS
31 SUBSECTION.

32 (4) THE LICENSE MAY BE ISSUED FOR ALL OF SUCH TWO YEAR TERMS, OR UPON
33 APPLICATION MADE DURING ANY SUCH TERM, FOR THE BALANCE THEREOF.

34 (5) ANY LICENSE SHALL BE CONSIDERED IN GOOD STANDING WITHIN THE
35 LICENSE TERM UNLESS:

36 (A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTI-
37 CLE; OR

38 (B) IF AT THE EXPIRATION DATE OF THE LICENSE TERM, THE LICENSEE FAILS
39 TO FILE A RENEWAL APPLICATION, PROVIDED THE LICENSE WAS IN GOOD STANDING
40 DURING THE TERM.

41 (6) BEFORE THE RENEWAL OF ANY TITLE INSURANCE AGENT'S LICENSE SHALL BE
42 ISSUED, THE LICENSEE SHALL HAVE:

43 (A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND
44 SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTEN-
45 DENT MAY PRESCRIBE; AND

46 (B) PAID SUCH FEES AS ARE PRESCRIBED IN THIS SECTION.

47 (7) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH
48 THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE
49 LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT
50 EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE
51 APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE
52 REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF
53 SUCH REFUSAL TO THE APPLICANT AND TO EACH PROPOSED SUB-LICENSEE. BEFORE
54 REFUSING TO RENEW ANY SUCH LICENSE, EXCEPT ON THE GROUND OF FAILURE TO
55 PASS A WRITTEN EXAMINATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLI-

1 CANT OF THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE THE
2 APPLICANT A HEARING.

3 (8) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE
4 WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICEN-
5 SEE OR SUB-LICENSEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY
6 SERVICE FOR THE UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION
7 FOR SUCH RENEWAL LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF
8 SUCH INDIVIDUAL, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY
9 SOME PERSON OR PERSONS WHO IN HIS OR HER JUDGMENT HAVE KNOWLEDGE OF THE
10 FACTS AND WHO MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE
11 INABILITY OF SUCH TITLE INSURANCE AGENT TO MAKE PERSONAL APPLICATION.

12 (9) AN INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO IS UNABLE TO COMPLY
13 WITH LICENSE RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES,
14 SUCH AS A LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH
15 PROCEDURES, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE
16 LICENSEE OR SUB-LICENSEE MAY ALSO REQUEST A WAIVER OF ANY EXAMINATION
17 REQUIREMENT OR ANY OTHER FINE OR SANCTION IMPOSED FOR FAILURE TO COMPLY
18 WITH RENEWAL PROCEDURES.

19 (10) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
20 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
21 LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF
22 TEN DOLLARS FOR LATE FILING.

23 (11) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A
24 MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME, AND WHO
25 SHALL HAVE BEEN DISCHARGED THEREFROM UNDER CONDITIONS OTHER THAN
26 DISHONORABLE, IN A CURRENT LICENSING PERIOD FOR THE DURATION OF SUCH
27 PERIOD.

28 (12) EXCEPT WHERE A CORPORATION, ASSOCIATION OR FIRM LICENSED AS A
29 TITLE INSURANCE AGENT IS APPLYING TO ADD A SUB-LICENSEE OR THE DATE OF
30 THE EXPIRATION OF THE LICENSE IS CHANGED, THERE SHALL BE NO FEE REQUIRED
31 FOR THE ISSUANCE OF AN AMENDED LICENSE.

32 (13) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
33 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
34 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
35 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
36 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
37 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

38 (J) THE SUPERINTENDENT MAY REFUSE TO ISSUE A LICENSE OR RENEWAL
39 LICENSE, AS THE CASE MAY BE, TO ANY APPLICANT IF THE SUPERINTENDENT
40 FINDS THAT SUCH APPLICANT HAS BEEN OR WILL BE RECEIVING ANY BENEFIT OR
41 ADVANTAGE IN VIOLATION OF SECTION SIX THOUSAND FOUR HUNDRED NINE OF THIS
42 CHAPTER, OR IF THE SUPERINTENDENT FINDS THAT MORE THAN TEN PERCENT OF
43 THE AGGREGATE NET COMMISSIONS OR OTHER COMPENSATION RECEIVED DURING THE
44 TERM OF THE EXISTING LICENSE, IF ANY, OR TO BE RECEIVED DURING THE TERM
45 OF THE LICENSE APPLIED FOR, BY THE APPLICANT, RESULTED OR WILL RESULT
46 FROM INSURANCE ON THE PROPERTY AND RISKS SET FORTH IN SUBPARAGRAPHS (A),
47 (B) AND (C) OF PARAGRAPH ONE OF SUBSECTION (I) OF SECTION TWO THOUSAND
48 ONE HUNDRED THREE OF THIS ARTICLE, EXCEPT THAT IN DETERMINING THE TEN
49 PERCENT, THE AGGREGATE NET COMMISSIONS OR OTHER COMPENSATION SHALL NOT
50 INCLUDE COMMISSIONS OR OTHER COMPENSATION FROM MORTGAGE REFINANCING
51 TRANSACTIONS INVOLVING REAL PROPERTY USED PREDOMINANTLY FOR RESIDENTIAL
52 PURPOSES AND WHICH CONSISTS OF NOT MORE THAN FOUR DWELLING UNITS, OTHER
53 THAN HOTELS AND MOTELS. EVERY LICENSEE SUBJECT TO THIS CHAPTER SHALL
54 CERTIFY AT THE TIME OF LICENSING OR UPON RENEWAL TO THE SUPERINTENDENT
55 THAT SUCH LICENSEE IS IN COMPLIANCE WITH THIS SUBSECTION.

1 S 18. The insurance law is amended by adding a new section 2141 to
2 read as follows:

3 S 2141. TITLE INSURANCE CLOSERS; LICENSING. (A) THE SUPERINTENDENT MAY
4 ISSUE A LICENSE TO ANY INDIVIDUAL WHO HAS COMPLIED WITH THE REQUIREMENTS
5 OF THIS CHAPTER, AUTHORIZING THE LICENSEE TO ACT AS A TITLE INSURANCE
6 CLOSER FOR ANY AUTHORIZED TITLE INSURANCE CORPORATION OR TITLE INSURANCE
7 AGENT.

8 (B) EVERY INDIVIDUAL APPLICANT FOR A LICENSE UNDER THIS SECTION SHALL
9 BE EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE ISSUANCE OF SUCH
10 LICENSE.

11 (C) BEFORE ANY ORIGINAL TITLE INSURANCE CLOSER'S LICENSE IS ISSUED,
12 THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICA-
13 TION BY THE PROSPECTIVE LICENSEE IN SUCH FORM OR FORMS AND SUPPLEMENTS
14 THERETO, ALONG WITH A FEE IN THE AMOUNT OF FORTY DOLLARS FOR EACH YEAR
15 OR FRACTION OF A YEAR IN WHICH THE LICENSE SHALL BE VALID, AND CONTAIN-
16 ING INFORMATION THE SUPERINTENDENT PRESCRIBES.

17 (D) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF
18 EVERY INDIVIDUAL APPLICANT FOR THE TITLE INSURANCE CLOSER LICENSE,
19 REQUIRE SUCH INDIVIDUAL TO SUBMIT TO A PERSONAL WRITTEN EXAMINATION AND
20 TO PASS THE SAME TO THE SATISFACTION OF THE SUPERINTENDENT. THE EXAMINA-
21 TION SHALL BE HELD AT SUCH TIMES AND PLACES AS THE SUPERINTENDENT SHALL
22 FROM TIME TO TIME DETERMINE. EVERY INDIVIDUAL APPLYING TO TAKE ANY WRIT-
23 TEN EXAMINATION SHALL, AT THE TIME OF APPLYING THEREFOR, PAY TO THE
24 SUPERINTENDENT OR, AT THE DISCRETION OF THE SUPERINTENDENT, DIRECTLY TO
25 ANY ORGANIZATION THAT IS UNDER CONTRACT TO PROVIDE EXAMINATION SERVICES,
26 AN EXAMINATION FEE OF AN AMOUNT THAT IS THE ACTUAL DOCUMENTED ADMINIS-
27 TRATIVE COST OF CONDUCTING SAID QUALIFYING EXAMINATION AS CERTIFIED BY
28 THE SUPERINTENDENT FROM TIME TO TIME. AN EXAMINATION FEE REPRESENTS AN
29 ADMINISTRATIVE EXPENSE AND SHALL NOT BE REFUNDABLE. THE SUPERINTENDENT
30 MAY ACCEPT, IN LIEU OF ANY SUCH EXAMINATION, THE RESULT OF ANY PREVIOUS
31 WRITTEN EXAMINATION, GIVEN BY THE SUPERINTENDENT, WHICH IN THE SUPER-
32 INTENDENT'S JUDGMENT, IS EQUIVALENT TO THE EXAMINATION FOR WHICH IT IS
33 SUBSTITUTED.

34 (E) EVERY INDIVIDUAL SEEKING TO QUALIFY TO OBTAIN A LICENSE UNDER
35 SUBSECTION (B) OF THIS SECTION SHALL BE REQUIRED TO PASS THE TYPE OR
36 TYPES OF EXAMINATION PRESCRIBED BY THE SUPERINTENDENT. AN INDIVIDUAL
37 SHALL NOT BE DEEMED QUALIFIED TO TAKE THE EXAMINATION UNLESS THE INDI-
38 VIDUAL HAS SUCCESSFULLY COMPLETED A COURSE OR COURSES, APPROVED AS TO
39 METHOD AND CONTENT BY THE SUPERINTENDENT, COVERING THE TITLE INSURANCE
40 BUSINESS AND REQUIRING NOT LESS THAN TWENTY HOURS OF CLASSROOM WORK, IN
41 INSTITUTIONS OF LEARNING MEETING THE STANDARDS PRESCRIBED BY PARAGRAPH
42 ONE OF SUBSECTION (A) OF SECTION TWO THOUSAND ONE HUNDRED FOUR OF THIS
43 ARTICLE.

44 (F) NO SUCH WRITTEN EXAMINATION OR PRE-LICENSING EDUCATION SHALL BE
45 REQUIRED OF ANY:

46 (1) INDIVIDUAL WHO FILES AN APPLICATION UNDER THIS SECTION WITHIN ONE
47 YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION AND WHO DEMONSTRATES TO
48 THE SATISFACTION OF THE SUPERINTENDENT THAT SUCH APPLICANT HAS, WITHOUT
49 INTERRUPTION, REGULARLY AND CONTINUOUSLY PERFORMED THE FUNCTIONS OF A
50 TITLE INSURANCE CLOSER FOR A PERIOD OF AT LEAST FIVE YEARS IMMEDIATELY
51 PRECEDING THE FILING OF SUCH APPLICATION AND IS COMPETENT AND TRUSTWOR-
52 THY TO ACT AS A TITLE INSURANCE CLOSER;

53 (2) APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY THE
54 SUPERINTENDENT FOR A TITLE INSURANCE CLOSER'S LICENSE AND WAS LICENSED
55 AS SUCH, OR OF AN APPLICANT WHO WAS LICENSED AS A TITLE INSURANCE CLOSER
56 BUT DID NOT PASS SUCH AN EXAMINATION, PROVIDED THE APPLICANT APPLIES

1 WITHIN TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE APPLICANT'S
2 LICENSE; OR

3 (3) APPLICANT SEEKING TO OBTAIN A LICENSE AS A TITLE INSURANCE CLOSER,
4 WHEN SUCH APPLICANT IS A LICENSED ATTORNEY-AT-LAW IN THIS STATE.

5 (G) THE SUPERINTENDENT MAY REFUSE TO ISSUE TO AN APPLICANT A TITLE
6 INSURANCE CLOSER'S LICENSE IF, IN THE SUPERINTENDENT'S JUDGMENT, THE
7 PROPOSED LICENSEE:

8 (1) IS NOT TRUSTWORTHY AND COMPETENT TO ACT AS SUCH CLOSER;

9 (2) HAS GIVEN CAUSE FOR THE REVOCATION OR SUSPENSION OF SUCH A
10 LICENSE; OR

11 (3) HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSUANCE OF
12 SUCH LICENSE.

13 (H) (1) EVERY LICENSE ISSUED TO AN INDIVIDUAL BORN IN AN ODD-NUMBERED
14 YEAR SHALL EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH ODD-NUMBERED
15 YEAR. LICENSES ISSUED TO INDIVIDUALS BORN IN EVEN-NUMBERED YEARS SHALL
16 EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR. EVERY
17 SUCH LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS
18 UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SUBSECTION.

19 (2) THE LICENSE MAY BE ISSUED FOR ALL OF SUCH TWO YEAR TERMS, OR UPON
20 APPLICATION MADE DURING ANY SUCH TERM, FOR THE BALANCE THEREOF.

21 (3) ANY LICENSE SHALL BE CONSIDERED IN GOOD STANDING WITHIN THE
22 LICENSE TERM UNLESS:

23 (A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTI-
24 CLE; OR

25 (B) IF AT THE EXPIRATION DATE OF THE LICENSE TERM, THE LICENSEE FAILS
26 TO FILE A RENEWAL APPLICATION, PROVIDED THE LICENSE WAS IN GOOD STANDING
27 DURING THE TERM.

28 (4) BEFORE THE RENEWAL OF ANY TITLE INSURANCE CLOSER'S LICENSE SHALL
29 BE ISSUED, THE LICENSEE SHALL HAVE:

30 (A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND
31 SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTEN-
32 DENT MAY PRESCRIBE; AND

33 (B) PAID SUCH FEES AS ARE PRESCRIBED IN THIS SECTION.

34 (5) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH
35 THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE
36 LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT
37 EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE
38 APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE
39 REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF
40 SUCH REFUSAL TO THE APPLICANT. BEFORE REFUSING TO RENEW ANY SUCH
41 LICENSE, EXCEPT ON THE GROUND OF FAILURE TO PASS A WRITTEN EXAMINATION,
42 THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPERINTENDENT'S
43 INTENTION TO DO SO AND SHALL GIVE THE APPLICANT A HEARING.

44 (6) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE
45 WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICEN-
46 SEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE
47 UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION FOR SUCH RENEWAL
48 LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF SUCH INDIVIDUAL,
49 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY SOME PERSON OR
50 PERSONS WHO IN HIS OR HER JUDGMENT HAVE KNOWLEDGE OF THE FACTS AND WHO
51 MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE INABILITY OF SUCH
52 TITLE INSURANCE CLOSER TO MAKE PERSONAL APPLICATION.

53 (7) AN INDIVIDUAL LICENSEE WHO IS UNABLE TO COMPLY WITH LICENSE
54 RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES, SUCH AS A
55 LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH PROCEDURES,
56 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE LICENSEE MAY

1 ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE
2 OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH RENEWAL PROCEDURES.

3 (8) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
4 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
5 LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF
6 TEN DOLLARS FOR LATE FILING.

7 (9) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A
8 MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME, AND WHO
9 SHALL HAVE BEEN DISCHARGED THEREFROM UNDER CONDITIONS OTHER THAN
10 DISHONORABLE, IN A CURRENT LICENSING PERIOD FOR THE DURATION OF SUCH
11 PERIOD.

12 (10) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
13 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
14 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
15 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
16 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
17 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

18 S 19. The insurance law is amended by adding a new section 2142 to
19 read as follows:

20 S 2142. TITLE INSURANCE SOLICITORS; LICENSING. (A) THE SUPERINTENDENT
21 MAY ISSUE A LICENSE TO ANY INDIVIDUAL THAT HAS COMPLIED WITH THE
22 REQUIREMENTS OF THIS CHAPTER, AUTHORIZING THE LICENSEE TO ACT AS A TITLE
23 INSURANCE SOLICITOR FOR ANY AUTHORIZED TITLE INSURANCE CORPORATION OR
24 TITLE INSURANCE AGENT.

25 (B) EVERY APPLICANT FOR A LICENSE UNDER THIS SECTION SHALL BE EIGHTEEN
26 YEARS OF AGE OR OLDER AT THE TIME OF THE ISSUANCE OF SUCH LICENSE.

27 (C) BEFORE ANY ORIGINAL TITLE INSURANCE SOLICITOR'S LICENSE IS ISSUED,
28 THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICA-
29 TION BY THE PROSPECTIVE LICENSEE IN SUCH FORM OR FORMS AND SUPPLEMENTS
30 THERETO, ALONG WITH A FEE IN THE AMOUNT OF FORTY DOLLARS FOR EACH YEAR
31 OR FRACTION OF A YEAR IN WHICH THE LICENSE SHALL BE VALID, AND CONTAIN-
32 ING INFORMATION THE SUPERINTENDENT PRESCRIBES.

33 (D) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF
34 EVERY APPLICANT FOR THE TITLE INSURANCE SOLICITOR LICENSE, REQUIRE SUCH
35 INDIVIDUAL TO SUBMIT TO A PERSONAL WRITTEN EXAMINATION AND TO PASS THE
36 SAME TO THE SATISFACTION OF THE SUPERINTENDENT. THE EXAMINATION SHALL BE
37 HELD AT SUCH TIMES AND PLACES AS THE SUPERINTENDENT SHALL FROM TIME TO
38 TIME DETERMINE. EVERY INDIVIDUAL APPLYING TO TAKE ANY WRITTEN EXAMINA-
39 TION SHALL, AT THE TIME OF APPLYING THEREFOR, PAY TO THE SUPERINTENDENT
40 OR, AT THE DISCRETION OF THE SUPERINTENDENT, DIRECTLY TO ANY ORGANIZA-
41 TION THAT IS UNDER CONTRACT TO PROVIDE EXAMINATION SERVICES, AN EXAMINA-
42 TION FEE OF AN AMOUNT THAT IS THE ACTUAL DOCUMENTED ADMINISTRATIVE COST
43 OF CONDUCTING SAID QUALIFYING EXAMINATION AS CERTIFIED BY THE SUPER-
44 INTENDENT FROM TIME TO TIME. AN EXAMINATION FEE REPRESENTS AN ADMINIS-
45 TRATIVE EXPENSE AND SHALL NOT BE REFUNDABLE. THE SUPERINTENDENT MAY
46 ACCEPT, IN LIEU OF ANY SUCH EXAMINATION, THE RESULT OF ANY PREVIOUS
47 WRITTEN EXAMINATION, GIVEN BY THE SUPERINTENDENT, WHICH IN THE SUPER-
48 INTENDENT'S JUDGMENT, IS EQUIVALENT TO THE EXAMINATION FOR WHICH IT IS
49 SUBSTITUTED.

50 (E) EVERY INDIVIDUAL SEEKING TO QUALIFY TO OBTAIN A LICENSE UNDER
51 SUBSECTION (B) OF THIS SECTION SHALL BE REQUIRED TO PASS THE TYPE OR
52 TYPES OF EXAMINATION PRESCRIBED BY THE SUPERINTENDENT. AN INDIVIDUAL
53 SHALL NOT BE DEEMED QUALIFIED TO TAKE THE EXAMINATION UNLESS THE INDI-
54 VIDUAL HAS SUCCESSFULLY COMPLETED A COURSE OR COURSES, APPROVED AS TO
55 METHOD AND CONTENT BY THE SUPERINTENDENT, COVERING THE TITLE INSURANCE
56 BUSINESS AND REQUIRING NOT LESS THAN TWENTY HOURS OF CLASSROOM WORK, IN

1 INSTITUTIONS OF LEARNING MEETING THE STANDARDS PRESCRIBED BY PARAGRAPH
2 ONE OF SUBSECTION (A) OF SECTION TWO THOUSAND ONE HUNDRED FOUR OF THIS
3 ARTICLE.

4 (F) NO SUCH WRITTEN EXAMINATION OR PRE-LICENSING EDUCATION SHALL BE
5 REQUIRED OF ANY:

6 (1) INDIVIDUAL WHO FILES AN APPLICATION UNDER THIS SECTION WITHIN ONE
7 YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION AND WHO DEMONSTRATES TO
8 THE SATISFACTION OF THE SUPERINTENDENT THAT SUCH APPLICANT HAS, WITHOUT
9 INTERRUPTION, REGULARLY AND CONTINUOUSLY PERFORMED THE FUNCTIONS OF A
10 TITLE INSURANCE SOLICITOR FOR A PERIOD OF AT LEAST FIVE YEARS IMMEDIATE-
11 LY PRECEDING THE FILING OF SUCH APPLICATION AND IS COMPETENT AND TRUST-
12 WORTHY TO ACT AS A TITLE INSURANCE CLOSER;

13 (2) APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY THE
14 SUPERINTENDENT FOR A TITLE INSURANCE SOLICITOR'S LICENSE AND WAS
15 LICENSED AS SUCH, OR OF AN APPLICANT WHO WAS LICENSED AS A TITLE INSUR-
16 ANCE SOLICITOR BUT DID NOT PASS SUCH AN EXAMINATION, PROVIDED THE APPLI-
17 CANT APPLIES WITHIN TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE
18 APPLICANT'S LICENSE; OR

19 (3) APPLICANT SEEKING TO OBTAIN A LICENSE AS A TITLE INSURANCE SOLICI-
20 TOR, WHEN SUCH APPLICANT IS A LICENSED ATTORNEY-AT-LAW IN THIS STATE.

21 (G) THE SUPERINTENDENT MAY REFUSE TO ISSUE TO AN APPLICANT A TITLE
22 INSURANCE SOLICITOR'S LICENSE IF, IN THE SUPERINTENDENT'S JUDGMENT, THE
23 PROPOSED LICENSEE:

24 (1) IS NOT TRUSTWORTHY AND COMPETENT TO ACT AS SUCH SOLICITOR;

25 (2) HAS GIVEN CAUSE FOR THE REVOCATION OR SUSPENSION OF SUCH A
26 LICENSE; OR

27 (3) HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSUANCE OF
28 SUCH LICENSE.

29 (H) (1) EVERY LICENSE ISSUED TO AN INDIVIDUAL BORN IN AN ODD-NUMBERED
30 YEAR SHALL EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH ODD-NUMBERED
31 YEAR. LICENSES ISSUED TO INDIVIDUALS BORN IN EVEN-NUMBERED YEARS SHALL
32 EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR. EVERY
33 SUCH LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS
34 UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SUBSECTION.

35 (2) THE LICENSE MAY BE ISSUED FOR ALL OF SUCH TWO YEAR TERMS, OR UPON
36 APPLICATION MADE DURING ANY SUCH TERM, FOR THE BALANCE THEREOF.

37 (3) ANY LICENSE SHALL BE CONSIDERED IN GOOD STANDING WITHIN THE
38 LICENSE TERM UNLESS:

39 (A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTI-
40 CLE; OR

41 (B) IF AT THE EXPIRATION DATE OF THE LICENSE TERM, THE LICENSEE FAILS
42 TO FILE A RENEWAL APPLICATION, PROVIDED THE LICENSE WAS IN GOOD STANDING
43 DURING THE TERM.

44 (4) BEFORE THE RENEWAL OF ANY TITLE INSURANCE SOLICITOR'S LICENSE
45 SHALL BE ISSUED, THE LICENSEE SHALL HAVE:

46 (A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND
47 SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTEN-
48 DENT MAY PRESCRIBE; AND

49 (B) PAID SUCH FEES AS ARE PRESCRIBED IN THIS SECTION.

50 (5) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH
51 THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE
52 LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT
53 EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE
54 APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE
55 REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF
56 SUCH REFUSAL TO THE APPLICANT. BEFORE REFUSING TO RENEW ANY SUCH

1 LICENSE, EXCEPT ON THE GROUND OF FAILURE TO PASS A WRITTEN EXAMINATION,
2 THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPERINTENDENT'S
3 INTENTION TO DO SO AND SHALL GIVE THE APPLICANT A HEARING.

4 (6) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE
5 WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICEN-
6 SEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE
7 UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION FOR SUCH RENEWAL
8 LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF SUCH INDIVIDUAL,
9 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY SOME PERSON OR
10 PERSONS WHO IN HIS OR HER JUDGMENT HAVE KNOWLEDGE OF THE FACTS AND WHO
11 MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE INABILITY OF SUCH
12 TITLE INSURANCE SOLICITOR TO MAKE PERSONAL APPLICATION.

13 (7) AN INDIVIDUAL LICENSEE WHO IS UNABLE TO COMPLY WITH LICENSE
14 RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES, SUCH AS A
15 LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH PROCEDURES,
16 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE LICENSEE MAY
17 ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE
18 OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH RENEWAL PROCEDURES.

19 (8) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
20 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
21 LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF
22 TEN DOLLARS FOR LATE FILING.

23 (9) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A
24 MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME, AND WHO
25 SHALL HAVE BEEN DISCHARGED THEREFROM UNDER CONDITIONS OTHER THAN
26 DISHONORABLE, IN A CURRENT LICENSING PERIOD FOR THE DURATION OF SUCH
27 PERIOD.

28 (10) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
29 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
30 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
31 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
32 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
33 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

34 S 20. Section 2314 of the insurance law is amended to read as follows:

35 S 2314. Charging of rates. No authorized insurer shall, and no
36 licensed insurance agent, NO TITLE INSURANCE AGENT, no employee or other
37 representative of an authorized insurer, and no licensed insurance
38 broker shall knowingly, charge or demand a rate or receive a premium
39 [which] THAT departs from the rates, rating plans, classifications,
40 schedules, rules and standards in effect on behalf of the insurer, or
41 shall issue or make any policy or contract involving a violation there-
42 of.

43 S 21. Section 6409 of the insurance law, subsection (c) as added by
44 chapter 955 of the laws of 1984, is amended to read as follows:

45 S 6409. Filing of policy forms; rates; classification of risks;
46 commissions and rebates prohibited. (a) No title insurance policy OR
47 GUARANTEE OF THE CORRECTNESS OF SEARCHES FORM shall be issued or deliv-
48 ered in this state, unless [and until a copy of the form thereof shall
49 have] IT HAS been filed with the superintendent [for his information] IN
50 ACCORDANCE WITH ARTICLE TWENTY-THREE OF THIS CHAPTER.

51 (b) [Every title insurance corporation shall file with the superinten-
52 dent its rate manual, if any, its basic schedule of rates and classi-
53 fication of risks, its rating plan and rules in connection with the
54 writing or issuance of policies of title insurance and shall thereafter
55 likewise file any changes therein. After any such filing no such corpo-
56 ration shall, in connection with the writing or issuance of any such

1 policy, deviate from the rates, classifications of risks and rules last
2 filed by it, either by making any reduction in rates without having
3 filed the same as herein provided, or by way of any discriminations in
4 favor of or against any insured. The superintendent shall have the
5 powers specified in article twenty-three of this chapter applicable to
6 title insurers.] TITLE INSURANCE RATES AND RATE FILINGS, INCLUDING RATES
7 FOR GUARANTEES OF THE CORRECTNESS OF SEARCHES, SHALL BE SUBJECT TO ARTI-
8 CLE TWENTY-THREE OF THIS CHAPTER.

9 (c) Notwithstanding any other provision of this article, every title
10 insurance [company] CORPORATION shall [be required to] offer, at or
11 prior to title closing, an optional policy form [which will insure] THAT
12 INSURES the title of owner-occupied real property used predominantly for
13 residential purposes [which] THAT consists of not more than four dwell-
14 ing units for an amount equal to the market value of the property at the
15 time a loss is discovered. Such policy form shall be filed with, AND
16 APPROVED BY, the superintendent [pursuant to subsection (a) of this
17 section] IN ACCORDANCE WITH ARTICLE TWENTY-THREE OF THIS CHAPTER. Rates
18 for such coverage shall be filed AND APPROVED pursuant to [subsection
19 (b) of this section] ARTICLE TWENTY-THREE OF THIS CHAPTER.

20 (d) No title insurance corporation, TITLE INSURANCE AGENT, or any
21 other person acting for or on behalf of [it] THE TITLE INSURANCE CORPO-
22 RATION OR TITLE INSURANCE AGENT, shall OFFER OR make, DIRECTLY OR INDI-
23 RECTLY, any rebate of any portion of the fee, premium or charge made, or
24 pay or give to any applicant for insurance, or to any person, firm, or
25 corporation acting as agent, representative, attorney, or employee of
26 the owner, lessee, mortgagee or the prospective owner, lessee, or mort-
27 gagee or the prospective owner, lessee, or mortgagee of the real proper-
28 ty or any interest therein, either directly or indirectly, any commis-
29 sion, any part of its fees or charges, or any other consideration or
30 valuable thing, as an inducement for, or as compensation for, any title
31 insurance business, NOR SHALL ANY APPLICANT FOR INSURANCE, OR ANY
32 PERSON, FIRM, OR CORPORATION ACTING AS AGENT, REPRESENTATIVE, ATTORNEY,
33 OR EMPLOYEE OF THE OWNER, LESSEE, MORTGAGEE OR THE PROSPECTIVE OWNER,
34 LESSEE, OR MORTGAGEE OF THE REAL PROPERTY OR ANYONE HAVING ANY INTEREST
35 IN REAL PROPERTY KNOWINGLY RECEIVE, DIRECTLY OR INDIRECTLY, ANY SUCH
36 REBATE OR OTHER CONSIDERATION OR VALUABLE THING. Any person or entity
37 who [accepts or receives such a commission or rebate] VIOLATES THIS
38 SECTION shall be subject to a penalty equal to the greater of [one] FIVE
39 thousand dollars or five times the amount [thereof] OF ANY COMPENSATION
40 OR REBATE RECEIVED OR PAID.

41 (e) Premium rates for coverage shall fully reflect the foregoing
42 prohibitions of subsection (d) [hereof] OF THIS SECTION.

43 S 22. This act shall take effect on the one hundred eightieth day
44 after it shall have become a law, provided, however, that effective
45 immediately:

46 (1) the addition, amendment, or repeal of any rule or regulation
47 necessary for the implementation of this act on its effective date is
48 authorized and directed to be made and completed on or before such
49 effective date;

50 (2) the superintendent of financial services shall promulgate applica-
51 tion forms for persons, firms, associations, and corporations seeking to
52 obtain a license as a title insurance agent, or individuals seeking to
53 obtain a license as a title insurance closer or title insurance solici-
54 tor; and

55 (3) each person, firm, association, or corporation who has filed an
56 application for a license as a title insurance agent, or every individ-

1 ual who has filed an application for a license as a title insurance
2 closer or title insurance solicitor on or before January 1, 2015 or
3 within 90 days after the superintendent of financial services has
4 promulgated application forms pursuant to this act, whichever date is
5 later, may act as such licensee without a license issued pursuant to
6 section 2140, 2141, or 2142 of the insurance law, as added by sections
7 seventeen, eighteen, and nineteen of this act, until the superintendent
8 of financial services has made a final determination on the application
9 for such license filed by such person, firm, association, or corpo-
10 ration.

11 PART W

12 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012,
13 amending the public authorities law relating to authorizing the dormito-
14 ry authority to enter into certain design and construction management
15 agreements, as amended by section 1 of part I of chapter 58 of the laws
16 of 2013, is amended to read as follows:

17 S 2. This act shall take effect immediately and shall expire and be
18 deemed repealed April 1, [2014] 2015.

19 S 2. Within 90 days of the effective date of this act, the dormitory
20 authority of the state of New York shall provide a report providing
21 information regarding any project undertaken pursuant to a design and
22 construction management agreement, as authorized by part BB of chapter
23 58 of the laws of 2012, between the dormitory authority of the state of
24 New York and the department of environmental conservation and/or the
25 office of parks, recreation and historic preservation to the governor,
26 the temporary president of the senate and speaker of the assembly. Such
27 report shall include but not be limited to a description of each such
28 project, the project identification number of each such project, if
29 applicable, the projected date of completion, the status of the project,
30 the total cost or projected cost of each such project, and the location,
31 including the names of any county, town, village or city, where each
32 such project is located or proposed. In addition, such a report shall be
33 provided to the aforementioned parties by the first day of March of each
34 year that the authority to enter into such agreements pursuant to part
35 BB of chapter 58 of the laws of 2012 is in effect.

36 S 3. This act shall take effect immediately and shall be deemed to
37 have been in effect on and after April 1, 2014.

38 PART X

39 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
40 public authorities law relating to the powers and duties of the dormito-
41 ry authority of the state of New York relative to the establishment of
42 subsidiaries for certain purposes, as amended by section 28 of part D of
43 chapter 56 of the laws of 2012, is amended to read as follows:

44 S 2. This act shall take effect immediately and shall expire and be
45 deemed repealed on July 1, [2014] 2016; provided however, that the expi-
46 ration of this act shall not impair or otherwise affect any of the
47 powers, duties, responsibilities, functions, rights or liabilities of
48 any subsidiary duly created pursuant to subdivision twenty-five of
49 section 1678 of the public authorities law prior to such expiration.

50 S 2. This act shall take effect immediately.

51 PART Y

1 Section 1. Section 2976-a of the public authorities law is REPEALED.

2 S 2. Section 2868 of the public health law, as amended by section 43-a
3 of part B of chapter 58 of the laws of 2008, is amended to read as
4 follows:

5 S 2868. Fees and charges. The commissioner may by regulation establish
6 and charge to any nursing home company, for the period of occupancy date
7 to mortgage discharge, a fee for inspection, regulation, supervision and
8 audit not to annually exceed two-tenths of one percent of the mortgage
9 loan to recover the departmental costs in performing these functions IN
10 RELATION TO ANY NURSING HOME PROJECT FINANCED OR REFINANCED BY A LOAN
11 MADE UNDER THIS ARTICLE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN.
12 NOTWITHSTANDING THE FOREGOING, NO SUCH FEE SHALL BE CHARGED OR PAYABLE
13 PURSUANT TO THIS SECTION WITH RESPECT TO A NURSING HOME PROJECT FINANCED
14 OR REFINANCED WITH BONDS ISSUED ON OR AFTER APRIL FIRST, TWO THOUSAND
15 FOURTEEN.

16 S 3. Section 2881 of the public health law, as amended by section 43-b
17 of part B of chapter 58 of the laws of 2008, is amended to read as
18 follows:

19 S 2881. Fees and charges. The commissioner may, by regulation, estab-
20 lish and charge to eligible borrowers, for the period from occupancy
21 date to mortgage discharge, a fee for inspection, regulation, super-
22 vision and audit not to annually exceed two-tenths of one percent of the
23 mortgage loan to recover the departmental costs in performing these
24 functions IN RELATION TO ANY HOSPITAL PROJECT FINANCED OR REFINANCED BY
25 A LOAN MADE UNDER THIS ARTICLE PRIOR TO APRIL FIRST, TWO THOUSAND FOUR-
26 TEEN. NOTWITHSTANDING THE FOREGOING, NO SUCH FEE SHALL BE CHARGED OR
27 PAYABLE PURSUANT TO THIS SECTION WITH RESPECT TO A HOSPITAL PROJECT
28 FINANCED OR REFINANCED WITH BONDS ISSUED ON OR AFTER APRIL FIRST, TWO
29 THOUSAND FOURTEEN.

30 S 4. This act shall take effect immediately.

31 PART Z

32 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
33 of the laws of 1968 constituting the New York state urban development
34 corporation act, as amended by chapter 81 of the laws of 2013, is
35 amended to read as follows:

36 3. The provisions of this section shall expire, notwithstanding any
37 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
38 the laws of 1996 or of any other law, on July 1, [2014] 2015.

39 S 2. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after July 1, 2014.

41 PART AA

42 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
43 New York state urban development corporation act, relating to the powers
44 of the New York state urban development corporation to make loans, as
45 amended by section 1 of part H of chapter 58 of the laws of 2013, is
46 amended to read as follows:

47 S 2. This act shall take effect immediately provided, however, that
48 section one of this act shall expire on July 1, [2014] 2015, at which
49 time the provisions of subdivision 26 of section 5 of the New York state
50 urban development corporation act shall be deemed repealed; provided,
51 however, that neither the expiration nor the repeal of such subdivision
52 as provided for herein shall be deemed to affect or impair in any manner

1 any loan made pursuant to the authority of such subdivision prior to
2 such expiration and repeal.

3 S 2. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2014.

5 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
6 sion, section or part of this act shall be adjudged by any court of
7 competent jurisdiction to be invalid, such judgment shall not affect,
8 impair, or invalidate the remainder thereof, but shall be confined in
9 its operation to the clause, sentence, paragraph, subdivision, section
10 or part thereof directly involved in the controversy in which such judg-
11 ment shall have been rendered. It is hereby declared to be the intent of
12 the legislature that this act would have been enacted even if such
13 invalid provisions had not been included herein.

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