

S. 6357--B

A. 8557--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

AN ACT to 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 utilizing labor agreements, 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

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

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providing for the repeal of such provisions upon expiration thereof, in relation to the effectiveness thereof (Part D); to amend the vehicle 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 temporary 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

1 by section 4 of part A of chapter 58 of the laws of 2012, is amended to
2 read as follows:

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

28 S 2. Subdivision (g) of section 15 of chapter 329 of the laws of 1991,
29 as added by section 9 of chapter 330 of the laws of 1991, is REPEALED,
30 and subdivision (f) of section 15 of chapter 329 of the laws of 1991,
31 amending the state finance law and other laws relating to the establish-
32 ment of the dedicated highway and bridge trust fund, as added by section
33 9 of chapter 330 of the laws of 1991, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

13 S 8. This act shall take effect immediately.

14 PART B

15 Section 1. Sections 8 and 17 of part F of chapter 56 of the laws of
16 2011 permitting authorized state entities to utilize the design-build
17 method for infrastructure projects are amended to read as follows:

18 S 8. If otherwise applicable, capital projects undertaken by the
19 authorized state entity pursuant to this act shall be subject to section
20 135 of the state finance law and section 222 of the labor law. FOR ALL
21 CAPITAL PROJECTS USING A DESIGN-BUILD CONTRACT THAT ARE ESTIMATED TO
22 COST IN EXCESS OF \$10 MILLION, A PROJECT LABOR AGREEMENT SHALL BE
23 INCLUDED IN THE REQUEST FOR PROPOSALS FOR THE CAPITAL PROJECT UNLESS,
24 BASED UPON A FEASIBILITY STUDY EXAMINING THE POTENTIAL COST SAVING AND
25 EFFICIENCIES OF A PROJECT LABOR AGREEMENT, THE AUTHORIZED STATE ENTITY
26 CANNOT DETERMINE THAT A PROJECT LABOR AGREEMENT WOULD RESULT IN LABOR
27 COST SAVINGS OF AT LEAST FIVE PERCENT AND THAT ITS INTEREST IN OBTAINING
28 THE BEST WORK AT THE LOWEST POSSIBLE PRICE, PREVENTING FAVORITISM, FRAUD
29 AND CORRUPTION, AND OTHER CONSIDERATIONS, SUCH AS THE IMPACT OF DELAY,
30 AND ANY HISTORY OF LABOR UNREST, ARE BEST MET BY REQUIRING A PROJECT
31 LABOR AGREEMENT. FOR ALL CAPITAL PROJECTS USING A DESIGN-BUILD CONTRACT
32 THAT ARE ESTIMATED TO COST \$10 MILLION OR LESS, A PROJECT LABOR AGREE-
33 MENT FEASIBILITY STUDY MAY BE CONSIDERED BUT IS NOT REQUIRED.

34 S 17. This act shall take effect immediately and shall expire and be
35 deemed repealed [3] 6 years after such date, provided that, projects
36 with requests for qualifications issued prior to such repeal shall be
37 permitted to continue under this act notwithstanding such repeal.

38 S 2. This act shall take effect immediately.

39 PART C

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

44 S 13. This act shall take effect immediately; provided however that
45 sections one through seven of this act, the amendments to subdivision 2
46 of section 205 of the tax law made by section eight of this act, and
47 section nine of this act shall expire and be deemed repealed on [March
48 31] APRIL 1, 2015; provided further, however, that the amendments to
49 subdivision 3 of section 205 of the tax law made by section eight of
50 this act shall expire and be deemed repealed on March 31, 2018; provided
51 further, however, that the provisions of section eleven of this act

1 shall take effect April 1, 2004 and shall expire and be deemed repealed
2 on [March 31] APRIL 1, 2015.

3 S 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
4 the state finance law relating to the costs of the department of motor
5 vehicles, as amended by section 1 of part E of chapter 59 of the laws of
6 2009, is amended to read as follows:

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

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

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

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

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

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

36 5. For furnishing a certification of any paper, record or official
37 document, one dollar. No fees shall be charged or collected for copies
38 of papers, records or official documents, furnished to public officers
39 for use in their official capacity, or for the annual reports of the
40 commissioner in the ordinary course of distribution, but the commission-
41 er may fix reasonable charges for copies of papers, records, official
42 documents and other publications furnished or issued to others under
43 this authority. All fees charged and collected by the commissioner
44 [shall belong to the people of the state and shall be paid monthly,
45 accompanied by a detailed statement thereof, into the treasury of the
46 state to the credit of the general fund] PURSUANT TO THIS SECTION SHALL
47 BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION RESERVE AND
48 PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST FUND ESTAB-
49 LISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE LAW.

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

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

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

3 13. ALL FEES COLLECTED BY THE COMMISSIONER PURSUANT TO THIS SECTION
4 SHALL BE DEPOSITED BY THE COMPTROLLER INTO THE SPECIAL OBLIGATION
5 RESERVE AND PAYMENT ACCOUNT OF THE DEDICATED HIGHWAY AND BRIDGE TRUST
6 FUND ESTABLISHED PURSUANT TO SECTION EIGHTY-NINE-B OF THE STATE FINANCE
7 LAW.

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

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

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

40 (a) The special obligation reserve and payment account shall consist
41 (i) of all moneys required to be deposited in the dedicated highway and
42 bridge trust fund pursuant to the provisions of sections two hundred
43 eighty-nine-e, three hundred one-j, five hundred fifteen and eleven
44 hundred sixty-seven of the tax law, section four hundred one of the
45 vehicle and traffic law, and section thirty-one of chapter fifty-six of
46 the laws of nineteen hundred ninety-three, (ii) all fees, fines or
47 penalties collected by the commissioner of transportation pursuant to
48 section fifty-two, section three hundred twenty-six, [and subdivisions
49 five, eight and twelve of] section eighty-eight of the highway law,
50 subdivision fifteen of section three hundred eighty-five of the vehicle
51 and traffic law, section fifteen of this chapter, excepting moneys
52 deposited with the state on account of betterments performed pursuant to
53 subdivision twenty-seven or subdivision thirty-five of section ten of
54 the highway law, AND SECTIONS NINETY-FOUR, ONE HUNDRED THIRTY-FIVE, ONE
55 HUNDRED FORTY-FOUR AND ONE HUNDRED FORTY-FIVE OF THE TRANSPORTATION LAW
56 (iii) any moneys collected by the department of transportation for

1 services provided pursuant to agreements entered into in accordance with
2 section ninety-nine-r of the general municipal law, and (iv) any other
3 moneys collected therefor or credited or transferred thereto from any
4 other fund, account or source.

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

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

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

44 S 11. Paragraph a of subdivision 5 of section 89-b of the state
45 finance law, as amended by section 60-a of part HH of chapter 57 of the
46 laws of 2013, is amended to read as follows:

47 a. Moneys in the dedicated highway and bridge trust fund shall,
48 following appropriation by the legislature, be utilized for: recon-
49 struction, replacement, reconditioning, restoration, rehabilitation and
50 preservation of state, county, town, city and village roads, highways,
51 parkways, and bridges thereon, to restore such facilities to their
52 intended functions; construction, reconstruction, enhancement and
53 improvement of state, county, town, city, and village roads, highways,
54 parkways, and bridges thereon, to address current and projected capacity
55 problems including costs for traffic mitigation activities; aviation
56 projects authorized pursuant to section fourteen-j of the transportation

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

struction, improvement, reconditioning and preservation of municipal airports; privately owned airports and aviation capital facilities, excluding airports operated by the state or operated by a bi-state municipal corporate instrumentality for which federal funding is not available provided the project is consistent with an approved airport layout plan; construction, reconstruction, enhancement, improvement, replacement, reconditioning, restoration, rehabilitation and preservation of state, county, town, city and village roads, highways, parkways and bridges; and construction, reconstruction, improvement, reconditioning and preservation of fixed ferry facilities of municipal and privately owned ferry lines for transportation purposes, purposes authorized on or after the effective date of this section. Beginning with disbursements made on and after the first day of April, nineteen hundred ninety-three, moneys in such fund shall be available to pay such costs or expenses made pursuant to appropriations or reappropriations made during the state fiscal year which began on the first of April, nineteen hundred ninety-two. Beginning the first day of April, nineteen hundred ninety-three, moneys in such fund shall also be used for transfers to the general debt service fund and the revenue bond tax fund of amounts equal to that respectively required for service contract and financing agreement payments as provided and authorized by section three hundred eighty of the public authorities law, section eleven of chapter three hundred twenty-nine of the laws of nineteen hundred ninety-one, as amended, and sections sixty-eight-c and sixty-nine-o of this chapter.

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

PART D

Section 1. Section 2 of part D of 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, is amended to read as follows:

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

S 2. This act shall take effect immediately.

PART E

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

ACCIDENT PREVENTION COURSE INTERNET, AND

OTHER TECHNOLOGY [PILOT] PROGRAM

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

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

3 S 399-k. Accident prevention course internet technology [pilot]
4 program. The commissioner shall establish and implement a comprehensive
5 [pilot] program to [review and study] ALLOW internet, and other technol-
6 ogies as approved by the commissioner, as a training method for the
7 administration and completion of an approved accident prevention course
8 for the purposes of granting point and insurance premium reduction bene-
9 fits.

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

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

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

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

38 Accident prevention course internet, and other technology [pilot]
39 program fund. 1. There is hereby established in the joint custody of the
40 state comptroller and the commissioner of taxation and finance a special
41 fund to be known as the "accident prevention course internet, and other
42 technology [pilot] program fund".

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

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

51 S 5. This act shall take effect on the one hundred eightieth day after
52 it shall have become a law [and shall expire and be deemed repealed five
53 years after the date that the accident prevention course internet, and
54 other technology pilot program is established and implemented by the
55 commissioner of motor vehicles pursuant to article 12-C of the vehicle
56 and traffic law, as added by section three of this act]; provided that

1 any rules and regulations necessary to implement the provisions of this
2 act on its effective date are authorized and directed to be completed on
3 or before such date; and provided, further, that the commissioner of
4 motor vehicles shall notify the legislative bill drafting commission of
5 the date he or she establishes and implements the accident prevention
6 course internet technology pilot program pursuant to article 12-C of the
7 vehicle and traffic law, as added by section three of this act, in order
8 that such commission may maintain an accurate and timely effective data
9 base of the official text of the laws of the state of New York in furth-
10 erance of effecting the provisions of section 44 of the legislative law
11 and section 70-b of the public officers law.

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

14

PART F

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

17 (F) A COMMERCIAL DRIVER'S LICENSE SHALL BE SUSPENDED BY THE COMMIS-
18 SIONER IF THE HOLDER FAILS TO AMEND THE LICENSE TO ADD OR REMOVE A
19 LICENSE RESTRICTION AS DIRECTED BY THE COMMISSIONER. SUCH SUSPENSION
20 SHALL REMAIN IN EFFECT UNTIL THE HOLDER OF THE COMMERCIAL DRIVER'S
21 LICENSE AMENDS HIS OR HER LICENSE AS DIRECTED BY THE COMMISSIONER. THE
22 COMMISSIONER SHALL DIRECT THE HOLDER OF SUCH COMMERCIAL DRIVER'S
23 LICENSE, BY FIRST CLASS MAIL TO THE ADDRESS OF SUCH PERSON ON FILE WITH
24 THE DEPARTMENT OR AT THE CURRENT ADDRESS PROVIDED BY THE UNITED STATES
25 POSTAL SERVICE, TO AMEND HIS OR HER COMMERCIAL DRIVER'S LICENSE BY
26 ADDING OR REMOVING A SPECIFIED RESTRICTION, AND THAT FAILURE TO AMEND
27 SUCH LICENSE AS DIRECTED SHALL RESULT IN THE SUSPENSION OF HIS OR HER
28 COMMERCIAL DRIVER'S LICENSE NO EARLIER THAN THIRTY DAYS FROM THE DATE OF
29 THE NOTICE TO SUCH HOLDER.

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

33 1-a. Whenever a license is required to operate a commercial motor
34 vehicle, no person shall operate a commercial motor vehicle without the
35 proper endorsements for the specific vehicle being operated or for the
36 passengers or type of cargo being transported; OR WITHOUT THE PROPER
37 RESTRICTIONS OR WITH RESTRICTIONS THAT ARE INAPPLICABLE TO OR INAPPRO-
38 PRIATE FOR THE HOLDER FOR HIS OR HER OPERATION OF COMMERCIAL MOTOR VEHI-
39 CLES.

40 S 3. This act shall take effect immediately.

41

PART G

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

45 TOLL COLLECTIONS

46 S 2. Subdivision 1 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 1. Notwithstanding any other provision of law, every public authority
49 which operates a toll highway bridge and/or tunnel facility is hereby
50 authorized and empowered to impose monetary liability [on the owner of a
51 vehicle] for failure [of an operator thereof] to comply with the toll

1 collection regulations of such public authority in accordance with the
2 provisions of this section.

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

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

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

37 4. A certificate, sworn to or affirmed by an agent of the public
38 authority which charged that the violation occurred, or a facsimile
39 thereof, based upon inspection of [photographs, microphotographs, vide-
40 otape or other recorded images] DATA OR IMAGES produced by [a photo-mon-
41 itoring] AN ELECTRONIC TOLL COLLECTION system OR OTHER RECORDS MAIN-
42 TAINED BY OR ON BEHALF OF THE PUBLIC AUTHORITY REGARDING TOLL VIOLATIONS
43 shall be prima facie evidence of the facts contained therein and shall
44 be admissible in any proceeding charging a violation of toll collection
45 regulations, provided that any [photographs, microphotographs, videotape
46 or other recorded images] SUCH DATA, IMAGES, OR RECORDS evidencing such
47 a violation shall be available for inspection and admission into
48 evidence in any proceeding to adjudicate the liability for such
49 violation.

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

52 5. An owner found liable for a violation of toll collection regu-
53 lations pursuant to this section shall for a first violation thereof be
54 liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND
55 FEES IN ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED
56 dollars or two times the toll evaded whichever is greater; for a second

violation thereof both within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [one] TWO hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO a monetary penalty not to exceed [one] THREE hundred [fifty] dollars or ten times the toll evaded whichever is greater.

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

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

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

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

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

8. Adjudication of the liability imposed upon owners by this section shall be by the entity having jurisdiction over violations of the rules and regulations of the public authority serving the notice of liability or where authorized by an administrative tribunal and all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a facility, and in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal as the case may be. THE ENTITY OR ADMINISTRATIVE TRIBUNAL THAT ADJUDICATES LIABILITY FOR A VIOLATION SHALL COLLECT THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES IN ADDITION TO THE MONETARY PENALTY OWED, AND SHALL PAY TO THE PUBLIC AUTHORITY WHOSE TOLL COLLECTION REGULATIONS WERE VIOLATED THE FULL AMOUNT OF THE ASSESSED TOLLS AND OTHER CHARGES AND FEES AND ONE-HALF OF THE MONETARY PENALTY.

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

10. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of the toll collection regulation provided that he or she sends to the public authority [serving the notice of

1 liability and to the court or other entity having jurisdiction] OR ITS
2 DULY AUTHORIZED AGENT FOR THIS PURPOSE a copy of the rental, lease or
3 other such contract document covering such vehicle on the date of [the
4 violation] USE OF A TOLL FACILITY, with the name and address of the
5 lessee clearly legible, within thirty days after receiving [the
6 original] notice of [liability] USE OF THE TOLL FACILITY BY SUCH
7 VEHICLE. Failure to send such information within such thirty day time
8 period shall render the lessor liable for the penalty prescribed by this
9 section. Where the lessor complies with the provisions of this subdivi-
10 sion, the lessee of such vehicle on the date of such [violation] USE OF
11 THE TOLL FACILITY shall be deemed to be the owner of such vehicle for
12 purposes of this section and shall be subject to liability for the
13 violation of toll collection regulations[, provided that the public
14 authority mails a notice of liability to the lessee within ten days
15 after the court, or other entity having jurisdiction, deems the lessee
16 to be the owner]. For purposes of this subdivision the term "lessor"
17 shall mean any person, corporation, firm, partnership, agency, associ-
18 ation or organization engaged in the business of renting or leasing
19 vehicles to any lessee under a rental agreement, lease or otherwise
20 wherein the said lessee has the exclusive use of said vehicle for any
21 period of time. For purposes of this subdivision, the term "lessee"
22 shall mean any person, corporation, firm, partnership, agency, associ-
23 ation or organization that rents, leases or contracts for the use of one
24 or more vehicles and has exclusive use thereof for any period of time.

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

27 11. Except as provided in subdivision ten of this section, if a person
28 receives a notice of liability pursuant to this section it shall be a
29 valid defense to an allegation of liability for a violation of toll
30 collection regulations that the individual who received the notice of
31 liability pursuant to this section was not the owner of the vehicle at
32 the time the [violation occurred] OBLIGATION FOR PAYMENT OF THE TOLL AND
33 OTHER CHARGES WAS INCURRED. If the owner liable for a violation of toll
34 collection regulations pursuant to this section was not the operator of
35 the vehicle at the time of the violation, the owner may maintain an
36 action for indemnification against the operator.

37 S 10. Subdivision 12 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 12. "Electronic toll collection system" shall mean a system of
40 collecting tolls or OTHER charges [which is capable of charging an
41 account holder the appropriate toll or charge by transmission of infor-
42 mation from an electronic device on a motor vehicle to the toll lane,
43 which information is used to charge the account the appropriate toll or
44 charge] USING ELECTRONIC DATA AND IMAGES. In adopting procedures for
45 the preparation and mailing of a notice of liability, the public author-
46 ity having jurisdiction over the toll facility shall adopt guidelines to
47 ensure adequate and timely notice to all electronic toll collection
48 system account holders to inform them when their accounts are delin-
49 quent. An owner who is an account holder under the electronic toll
50 collection system shall not be found liable for a violation of this
51 section unless such authority has first sent a notice of delinquency to
52 such account holder and the account holder was in fact delinquent at the
53 time of the violation.

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

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

6 16. ANY NOTICE REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY FIRST
7 CLASS MAIL MAY INSTEAD BE SENT, WITH CONSENT, BY ELECTRONIC MEANS OF
8 COMMUNICATION. A MANUAL OR AUTOMATIC RECORD OF ELECTRONIC COMMUNICATIONS
9 PREPARED IN THIS ORDINARY COURSE OF BUSINESS SHALL BE ADEQUATE EVIDENCE
10 OF ELECTRONIC NOTICE.

11 17. THE NEW YORK STATE THRUWAY AUTHORITY AND THE NEW YORK STATE BRIDGE
12 AUTHORITY ARE AUTHORIZED TO ADOPT RULES AND REGULATIONS TO ESTABLISH AN
13 ADMINISTRATIVE TRIBUNAL TO ADJUDICATE THE LIABILITY OF OWNERS FOR
14 VIOLATION OF TOLL COLLECTION REGULATIONS AS DEFINED IN AND IN ACCORDANCE
15 WITH THE PROVISIONS OF THIS SECTION AND THE APPLICABLE TOLL REGULATIONS
16 OF SUCH AUTHORITIES. SUCH TRIBUNAL SHALL HAVE, WITH RESPECT TO VIOLATION
17 OF TOLL COLLECTION REGULATIONS OF SUCH AUTHORITIES, NON-EXCLUSIVE JURIS-
18 DICTION OVER VIOLATIONS OF THE RULES AND REGULATIONS WHICH MAY FROM TIME
19 TO TIME BE ESTABLISHED BY SUCH AUTHORITIES IN ACCORDANCE WITH THE
20 PROVISIONS OF THIS SECTION. VIOLATIONS SHALL BE HEARD AND DETERMINED IN
21 THE COUNTY IN WHICH THE VIOLATION IS ALLEGED TO HAVE OCCURRED OR IN THE
22 COUNTY IN WHICH THE PUBLIC AUTHORITY HAS ITS PRIMARY OR REGIONAL ADMIN-
23 ISTRATIVE OFFICES AND REGULATIONS MAY PROVIDE FOR THE CONDUCT OF HEAR-
24 INGS VIA VIDEOCONFERENCING.

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

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

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

33 4-d. Suspension of registration for failure to answer or pay penalties
34 with respect to certain violations. Upon the receipt of a notification,
35 IN THE MANNER AND FORM PRESCRIBED BY THE COMMISSIONER, from a court
36 [or], an administrative tribunal, A PUBLIC AUTHORITY, OR ANY OTHER
37 PUBLIC ENTITY IMPOSING VIOLATIONS, that an owner of a motor vehicle
38 failed to appear on the return date or dates or a new subsequent
39 adjourned date or dates or failed to pay any penalty imposed by a court
40 or failed to comply with the rules and regulations of an administrative
41 tribunal following entry of a final decision or decisions, in response
42 to [five] THREE or more notices of liability or other process, issued
43 within an eighteen month period FROM ANY AND ALL JURISDICTIONS charging
44 such owner with a violation of toll collection regulations in accordance
45 with the provisions of section two thousand nine hundred eighty-five of
46 the public authorities law or sections sixteen-a, sixteen-b and
47 sixteen-c of chapter seven hundred seventy-four of the laws of nineteen
48 hundred fifty, OR OTHER COMPARABLE LAW, the commissioner or his OR HER
49 agent shall suspend the registration of the vehicle or vehicles involved
50 in the violation or the privilege of operation of any motor vehicle
51 owned by the registrant. Such suspension shall take effect no less than
52 thirty days from the date on which notice thereof is sent by the commis-
53 sioner to the person whose registration or privilege is suspended and
54 shall remain in effect until such registrant has appeared in response to
55 such notices of liability or has paid such penalty or in the case of an

1 administrative tribunal, the registrant has complied with the rules and
2 regulations following the entry of a final decision or decisions.

3 S 14. Subdivision 8 of section 402 of the vehicle and traffic law, as
4 amended by chapter 61 of the laws of 1989 and as renumbered by chapter
5 648 of the laws of 2006, is amended and a new subdivision 9 is added to
6 read as follows:

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

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

13 S 15. Subparagraph (i) of paragraph a of subdivision 5-a of section
14 401 of the vehicle and traffic law, as amended by section 9 of chapter
15 189 of the laws of 2013, is amended to read as follows:

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

1 purposes of this subdivision. Such denial shall only remain in effect as
2 long as the summonses remain unanswered, or in the case of an adminis-
3 trative tribunal, the registrant fails to comply with the rules and
4 regulations following entry of a final decision.

5 S 15-a. Paragraph a of subdivision 5-a of section 401 of the vehicle
6 and traffic law, as amended by section 9-a of chapter 189 of the laws of
7 2013, is amended to read as follows:

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

50 S 15-b. Paragraph a of subdivision 5-a of section 401 of the vehicle
51 and traffic law, as amended by section 9-b of chapter 189 of the laws of
52 2013, is amended to read as follows:

53 a. If at the time of application for a registration or renewal thereof
54 there is a certification from a court or administrative tribunal of
55 appropriate jurisdiction that the registrant or his or her represen-
56 tative failed to appear on the return date or any subsequent adjourned

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

36 S 15-c. Paragraph a of subdivision 5-a of section 401 of the vehicle
37 and traffic law, as amended by section 9-c of chapter 189 of the laws of
38 2013, is amended to read as follows:

39 a. If at the time of application for a registration or renewal thereof
40 there is a certification from a court or administrative tribunal of
41 appropriate jurisdiction that the registrant or his representative
42 failed to appear on the return date or any subsequent adjourned date or
43 failed to comply with the rules and regulations of an administrative
44 tribunal following entry of a final decision in response to three or
45 more summonses or other process, issued within an eighteen month period,
46 charging that such motor vehicle was parked, stopped or standing, or
47 that such motor vehicle was operated for hire by the registrant or his
48 agent without being licensed as a motor vehicle for hire by the appro-
49 priate local authority, in violation of any of the provisions of this
50 chapter or of any law, ordinance, rule or regulation made by a local
51 authority, or the registrant was liable in accordance with section elev-
52 en hundred eighty-b of this chapter for violations of subdivision (b),
53 (c), (d), (f) or (g) of section eleven hundred eighty of this chapter,
54 OR THE REGISTRANT WAS LIABLE IN ACCORDANCE WITH SECTION TWO THOUSAND
55 NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES LAW OR SECTIONS
56 SIXTEEN-A, SIXTEEN-B OR SIXTEEN-C OF CHAPTER SEVEN HUNDRED SEVENTY-FOUR

1 OF THE LAWS OF NINETEEN HUNDRED FIFTY, the commissioner or his agent
2 shall deny the registration or renewal application until the applicant
3 provides proof from the court or administrative tribunal wherein the
4 charges are pending that an appearance or answer has been made or in the
5 case of an administrative tribunal that he has complied with the rules
6 and regulations of said tribunal following entry of a final decision.
7 Where an application is denied pursuant to this section, the commission-
8 er may, in his discretion, deny a registration or renewal application to
9 any other person for the same vehicle and may deny a registration or
10 renewal application for any other motor vehicle registered in the name
11 of the applicant where the commissioner has determined that such regis-
12 trant's intent has been to evade the purposes of this subdivision and
13 where the commissioner has reasonable grounds to believe that such
14 registration or renewal will have the effect of defeating the purposes
15 of this subdivision. Such denial shall only remain in effect as long as
16 the summonses remain unanswered, or in the case of an administrative
17 tribunal, the registrant fails to comply with the rules and regulations
18 following entry of a final decision.

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

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

55 S 16. The vehicle and traffic law is amended by adding a new section
56 518 to read as follows:

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

28 2. SUCH COMPACT OR AGREEMENT SHALL ALSO PROVIDE SUCH TERMS AND PROCE-
29 DURES AS ARE NECESSARY AND PROPER TO FACILITATE ITS ADMINISTRATION. ANY
30 SUCH COMPACT OR AGREEMENT SHALL SPECIFY THE VIOLATIONS SUBJECT TO THE
31 COMPACT OR AGREEMENT, AND SHALL INCLUDE A DETERMINATION OF COMPARABLE
32 VIOLATIONS IN EACH STATE IF ANY SUCH VIOLATIONS ARE OF A SUBSTANTIALLY
33 SIMILAR NATURE BUT ARE NOT DENOMINATED OR DESCRIBED IN PRECISELY THE
34 SAME WORDS IN EACH PARTY STATE.

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

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

41 b. No charge may be established except upon proof by substantial
42 evidence; EXCEPT THAT FOR AN ALLEGATION OF LIABILITY IN ACCORDANCE WITH
43 SECTION TWO THOUSAND NINE HUNDRED EIGHTY-FIVE OF THE PUBLIC AUTHORITIES
44 LAW OR SECTIONS SIXTEEN-A, SIXTEEN-B AND SIXTEEN-C OF CHAPTER SEVEN
45 HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED FIFTY, NO CHARGE
46 MAY BE ESTABLISHED EXCEPT UPON PROOF BY PREPONDERANCE OF EVIDENCE AS
47 SUBMITTED.

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

50 3. With intent to obtain railroad, subway, bus, air, taxi or any other
51 public transportation service OR TO USE ANY HIGHWAY, PARKWAY, ROAD,
52 BRIDGE OR TUNNEL without payment of the lawful charge OR TOLL therefor,
53 or to avoid payment of the lawful charge OR TOLL for such transportation
54 service which has been rendered to him OR HER OR FOR SUCH USE OF ANY
55 HIGHWAY, PARKWAY, ROAD, BRIDGE OR TUNNEL, he OR SHE obtains or attempts
56 to obtain such service OR USE or avoids or attempts to avoid payment

therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

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

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

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

11. NOTICE. ANY NOTICE OR COMMUNICATION REQUIRED TO BE SENT PURSUANT TO THIS SECTION BY REGISTERED MAIL OR CERTIFIED MAIL MAY INSTEAD BE SENT BY FIRST CLASS MAIL OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION.

S 21. Section 2 of 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, is amended to read as follows:

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

S 22. Section 16-a of 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, as added by chapter 379 of the laws of 1992, is amended to read as follows:

S 16-a. Owner liability for failure of operator to comply with toll collection regulations of the port authority. Notwithstanding any other provision of law and in accordance with the provisions of [section] SECTIONS 16-b AND 16-C of this act, an owner of a vehicle may be held liable for failure of an operator thereof to comply with the toll collection regulations of the port authority of New York and New Jersey (hereinafter called port authority). The owner of a vehicle shall be liable pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of the toll collection regulations of the port authority, and such violation is evidenced by information obtained from a photo-monitoring system, provided, however, that no owner of a vehicle shall be liable where the operator of such vehicle has been convicted of a violation of those toll collection regulations for the same incident.

S 23. Section 16-b of 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

1 New York authority, as added by chapter 379 of the laws of 1992, subdi-
2 vision f as amended by chapter 666 of the laws of 1993, is amended to
3 read as follows:

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

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

51 b. A certificate, sworn to or affirmed by an agent of the port author-
52 ity, or a facsimile thereof, based upon inspection of [photographs,
53 microphotographs, videotape or other recorded images] DATA OR IMAGES
54 produced by [a photo-monitoring system] ITS ELECTRONIC TOLL COLLECTION
55 SYSTEM OR OTHER RECORDS MAINTAINED BY OR ON BEHALF OF THE PORT AUTHORITY
56 REGARDING TOLL VIOLATIONS shall be prima facie evidence of the facts

1 contained therein and shall be admissible in any proceeding charging a
2 violation of toll collection regulations of the port authority, provided
3 that any [photographs, microphotographs, videotape or other recorded
4 images] SUCH DATA, IMAGES, OR RECORDS evidencing such a violation shall
5 be available for inspection and admission into evidence in any proceed-
6 ing to adjudicate the liability for such violation.

7 c. An imposition of liability pursuant to this section shall be based
8 upon a preponderance of evidence as submitted. An imposition of liabil-
9 ity pursuant to this section shall not be deemed a conviction of an
10 operator and shall not be made part of the motor vehicle operating
11 record, furnished pursuant to section 354 of the vehicle and traffic
12 law, of the person upon whom such liability is imposed nor shall it be
13 used for insurance purposes in the provision of motor vehicle insurance
14 coverage.

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

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

34 (iii) The notice of liability shall contain information advising the
35 person charged of the manner and the time in which he may contest the
36 liability alleged in the notice. Such notice of liability shall also
37 contain a warning to advise the persons charged that failure to contest
38 in the manner and time provided shall be deemed an admission of liabil-
39 ity and that a default judgment may be entered thereon.

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

42 e. If an owner receives a notice of liability pursuant to this section
43 for any time period during which the vehicle was reported to the police
44 department as having been stolen, it shall be a valid defense to an
45 allegation of liability for a violation of the toll collection regu-
46 lations of the port authority that the vehicle had been reported to the
47 police as stolen prior to the time the violation occurred and had not
48 been recovered by such time. If an owner receives a notice of liability
49 pursuant to this section for any time period during which the vehicle
50 was stolen, but not as yet reported to the police as having been stolen,
51 it shall be a valid defense to an allegation of liability for a
52 violation of toll collection regulations of the port authority pursuant
53 to this section that the vehicle was reported as stolen within two hours
54 after discovery of the theft by the owner. For purposes of asserting the
55 defense provided by this subdivision, it shall be sufficient that a

1 certified copy of the police report on the stolen vehicle be sent by
2 first class mail to the court or other entity having jurisdiction.

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

34 g. Except as provided in subdivision f of this section, if a person
35 receives a notice of liability pursuant to this section it shall be a
36 valid defense to an allegation of liability for a violation of toll
37 collection regulations of the port authority that the individual who
38 received the notice of liability pursuant to this section was not the
39 owner of the vehicle at the time the [violation] USE OF THE VEHICULAR
40 CROSSING occurred. If the owner liable for a violation of the toll
41 collection regulations of the port authority pursuant to this section
42 was not the operator of the vehicle at the time of the [violation] USE
43 OF THE VEHICULAR CROSSING, the owner may maintain an action for indemni-
44 fication against the operator. The operator of the vehicle may apply to
45 the court or other entity having jurisdiction to adjudicate the liabil-
46 ity imposed under this section to accept responsibility for the
47 violation and satisfactorily discharge all applicable tolls, charges,
48 FEES, and penalties related to the violation.

49 h. ["Electronic toll collection system" shall mean a system of
50 collecting tolls or charges which is capable of charging an account
51 holder the appropriate toll or charge by transmission of information
52 from an electronic device on a motor vehicle to the toll lane, which
53 information is used to charge the account the appropriate toll or
54 charge.] In adopting procedures for the preparation and [mailing] SEND-
55 ING of a notice of liability, the port authority or its duly authorized
56 agent shall adopt guidelines [to ensure] FOR SENDING BY FIRST CLASS MAIL

1 OR, WITH CONSENT, BY ELECTRONIC MEANS OF COMMUNICATION, adequate and
2 timely notice to all electronic toll collection system account holders
3 to inform them when their accounts are delinquent. An owner who is an
4 account holder under the electronic toll collection system shall not be
5 found liable for a violation of this section unless such authority has
6 first sent a notice of delinquency to such account holder and the
7 account holder was in fact delinquent at the time of the violation.

8 i. Nothing in this section shall be construed to limit the liability
9 of an operator of OR THE ACCOUNT HOLDER ASSOCIATED WITH a vehicle for
10 any violation of the toll collection regulations of the port authority.
11 Nothing in this section shall authorize or preclude the port authority
12 from excluding from any of its facilities, in its sole discretion, any
13 or all vehicles found liable under this section as well as other vehi-
14 cles owned or operated by the owner or operator of OR ACCOUNT HOLDER
15 ASSOCIATED WITH such vehicle.

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

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

37 S 16-c. Adjudication of liability. Adjudication of the liability
38 imposed upon an owner by section 16-a of this act for a violation of the
39 toll collection regulations of the port authority occurring within the
40 territorial limits of the state of New York shall be in accordance with
41 the vehicle and traffic law of New York as set forth in sections 235,
42 236, 237, 239, 240, 241, 242, 401, 510 and 1809 of such law, or by such
43 entity having jurisdiction over violations of the toll collection regu-
44 lations of the port authority occurring within the territorial limits of
45 the state of New York, provided that all violations shall be heard and
46 determined in the county in which [the violation is alleged to have
47 occurred, or by consent of both parties,] OBLIGATION FOR PAYMENT OF THE
48 TOLLS OR OTHER CHARGES WAS INCURRED, OR in any county in the state of
49 New York in which the port authority operates or maintains a facility.
50 An owner found liable for a violation of toll collection regulations
51 pursuant to this section shall for a first violation thereof be liable
52 for THE FULL AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN
53 ADDITION TO a monetary penalty not to exceed [fifty] ONE HUNDRED dollars
54 or two times the toll evaded whichever is greater; for a second
55 violation thereof both within eighteen months be liable for THE FULL
56 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a

1 monetary penalty not to exceed [one] TWO hundred dollars or five times
2 the toll evaded whichever is greater; for a third or subsequent
3 violation thereof all within eighteen months be liable for THE FULL
4 AMOUNT OF THE ASSESSED TOLL AND OTHER CHARGES AND FEES IN ADDITION TO a
5 monetary penalty not to exceed [one] THREE hundred [fifty] dollars or
6 ten times the toll evaded whichever is greater. THE FULL AMOUNT OF THE
7 ASSESSED TOLLS AND OTHER CHARGES AND FEES AND ONE-HALF OF SUCH MONETARY
8 PENALTIES COLLECTED SHALL BE PAID TO THE PORT AUTHORITY; THE REMAINING
9 HALF OF SUCH MONETARY PENALTIES COLLECTED SHALL BE RETAINED OR DISTRIB-
10 UTED BY THE TRIBUNAL OR ENTITY ADJUDICATING THE VIOLATION IN ACCORDANCE
11 WITH EXISTING LAW.

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

14 (a) the amendments to subparagraph (i) of paragraph a of subdivision
15 5-a of section 401 of the vehicle and traffic law made by section
16 fifteen of this act shall not affect the expiration of such paragraph
17 and shall be deemed to expire therewith, when upon such date the
18 provisions of section fifteen-a of this act shall take effect;

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

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

29 (d) the amendments to paragraph a of subdivision 5-a of section 401 of
30 the vehicle and traffic law made by section fifteen-c 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-d of this act shall take effect.

34

PART H

35 Section 1. Section 9 of chapter 67 of the laws of 1992, amending the
36 environmental conservation law relating to pesticide product registra-
37 tion timetables and fees, as amended by section 1 of part S of chapter
38 60 of the laws of 2011, is amended to read as follows:

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

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

45 S 33-0705. Fee for registration.

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

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

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

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

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

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

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

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

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

45 b. The department shall, upon request from the department of health,
46 compile pesticide application information by nine-digit zip code and
47 provide the information to the commissioner of health for researchers
48 entitled to receive information pursuant to paragraph (d) of subdivision
49 one of section twenty-four hundred eleven of the public health law
50 provided, however, if the nine-digit zip code cannot be determined, the
51 information shall be compiled by town or city].

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

56 S 33-1205. Recordkeeping and reporting.

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

- 3 a. EPA registration number;
- 4 b. product name;
- 5 c. quantity of each pesticide used;
- 6 d. date applied;
- 7 e. location of application by address (including five-digit zip code).

8 Such records shall be maintained for a period of not less than three
9 years. [All commercial applicators shall file, at least annually, a
10 report or reports containing such information with the department on
11 computer diskette or in printed form on or before February first for the
12 prior calendar year.] All commercial applicators shall also maintain
13 corresponding records of the dosage rates, methods AND PLACE of applica-
14 tion and target organisms for each pesticide application. These records
15 shall be CREATED IMMEDIATELY AFTER APPLICATION, maintained on an annual
16 basis and retained for a period of not less than [three] FIVE years and
17 shall be available for inspection upon request by the department.

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

- 23 1. EPA registration number;
- 24 2. product name of the pesticide purchased;
- 25 3. quantity of the pesticide purchased;
- 26 4. date purchased;
- 27 5. location of intended application by address (including five-digit
28 zip code) or if address is unavailable by town or city (including five-
29 digit zip code) if the location of intended application differs from the
30 billing address that appears on the record.

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

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

43 [c. A private applicator shall, upon request, within six months,
44 provide site-specific information relating to pesticide applications to
45 any researcher entitled to receive information pursuant to paragraph (d)
46 of subdivision one of section twenty-four hundred eleven of the public
47 health law, provided, however, such request shall not be granted during
48 planting and harvesting unless at a time and in a manner that is mutual-
49 ly convenient.]

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

- 53 1. EPA REGISTRATION NUMBER;
- 54 2. PRODUCT NAME OF THE PESTICIDE SOLD;
- 55 3. TOTAL QUANTITY OF THE PESTICIDE SOLD DURING THE CALENDAR YEAR IN
56 EACH COUNTY IN THE STATE.

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

5 B. THE REQUIREMENTS OF THIS SUBDIVISION ARE NOT APPLICABLE TO: MINIMUM
6 RISK PESTICIDES; GENERAL USE ANTIMICROBIAL PESTICIDES, EXCEPT THOSE THAT
7 ARE SUBJECT TO THE PESTICIDE APPLICATOR CERTIFICATION REQUIREMENTS IN
8 REGULATIONS PROMULGATED BY THE DEPARTMENT; GENERAL USE PESTICIDE
9 PRODUCTS APPLIED TO THE CLOTHING OR SKIN; OR GENERAL USE AEROSOL
10 PRODUCTS WITH A DIRECTED SPRAY IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR
11 LESS, BUT NOT INCLUDING ANY FOGGER PRODUCT OR AEROSOL PRODUCT THAT
12 DISCHARGES TO A WIDE AREA.

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

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

16 1. Each person manufacturing or compounding a registered [restricted
17 use] pesticide in this state, or importing or causing a registered
18 [restricted use] pesticide to be imported into this state for use,
19 distribution, or storage, shall maintain records of all sales within the
20 state during the preceding year of each [restricted use] pesticide prod-
21 uct which he or she has imported, manufactured or compounded. The record
22 of each [restricted use] pesticide product shall include:

23 a. EPA registration number;

24 b. container size; and

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

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

31 3. THE REQUIREMENTS OF THIS SECTION ARE NOT APPLICABLE TO: MINIMUM
32 RISK PESTICIDES; GENERAL USE ANTIMICROBIAL PESTICIDES, EXCEPT THOSE THAT
33 ARE SUBJECT TO THE PESTICIDE APPLICATOR CERTIFICATION REQUIREMENTS IN
34 REGULATIONS PROMULGATED BY THE DEPARTMENT; GENERAL USE PESTICIDE
35 PRODUCTS APPLIED TO THE CLOTHING OR SKIN; OR GENERAL USE AEROSOL
36 PRODUCTS WITH A DIRECTED SPRAY IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR
37 LESS, BUT NOT INCLUDING ANY FOGGER PRODUCT OR AEROSOL PRODUCT THAT
38 DISCHARGES TO A WIDE AREA.

39 S 7. This act shall take effect immediately and shall be deemed to
40 have been in full force and effect on and after April 1, 2014 provided,
41 however, that sections three, four, five and six of this act shall take
42 effect on January 1, 2015.

43 PART I

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

47 25. "Hunting [accident] RELATED INCIDENT" means the injury to or
48 death of a person caused by the discharge of a firearm, CROSSBOW or
49 longbow while the person causing such injury or death, or the person
50 injured or killed, is taking or attempting to take game, wildlife or
51 fish.

52 S 2. Paragraphs 1 and 2 of subdivision 3 and subdivision 5 of section
53 11-0701 of the environmental conservation law, as amended by section 1-a

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

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

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

11 5. A non-resident bear tag entitles a person who has not been a resi-
12 dent of the state for more than thirty days who also possesses a hunting
13 license to hunt bear during the regular open season therefor or in an
14 open season fixed by regulation pursuant to subdivision eight of section
15 11-0903 of this article. It entitles a non-resident holder who also
16 possesses a hunting license with bowhunting privilege to hunt bear with
17 a longbow OR CROSSBOW during the open bear season. It entitles a non-re-
18 sident holder who also possesses a hunting license with muzzle-loading
19 privilege to hunt bear with a muzzleloader during the open bear season.

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

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

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

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

48 S 5. Subdivisions 2 and 3 of section 11-0719 of the environmental
49 conservation law, subdivision 2 as amended by section 27 and subdivision
50 3 as amended by section 28 of part R of chapter 58 of the laws of 2013,
51 are amended to read as follows:

52 2. a. The department may revoke the licenses, tags, bowhunting privi-
53 leges, or muzzle-loading privileges, which authorize the holder to hunt
54 and/or trap wildlife, and may deny the privilege of obtaining such
55 licenses, tags, bowhunting privileges, or muzzle-loading privileges, and

1 may deny the privileges of hunting and/or trapping with or without a
2 license.

3 (1) of any person who, while engaged in hunting, FISHING or trapping,
4 (i) causes death or injury to [another] ANY PERSON by discharging a
5 firearm, CROSSBOW or longbow, or

6 (ii) so negligently discharges a firearm, CROSSBOW or longbow as to
7 endanger the life or safety of another, or

8 (iii) so negligently and wantonly discharges a firearm, CROSSBOW or
9 longbow as to destroy or damage public or private property; or

10 (2) of any agent of the department authorized to issue certificates of
11 qualification in responsible hunting, bowhunting, or trapping practices
12 who improperly issues any such certification to a person whom he OR SHE
13 has not trained, or whom he OR SHE knows has not satisfactorily
14 completed all of the requirements necessary for such certification.

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

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

45 d. Every person injuring himself, herself or another person in a hunt-
46 ing [accident, as such term is defined in subdivision 25 of section
47 11-0103 of this article] RELATED INCIDENT, and the investigating law
48 enforcement officer summoned to or arriving at the scene of such [acci-
49 dent] INCIDENT shall within ten days from the occurrence of such [acci-
50 dent] INCIDENT file a report of the [accident] INCIDENT in writing with
51 the department. Every such person or law enforcement officer shall make
52 such other and additional reports as the department shall require.
53 Failure to report such [accident] INCIDENT as herein provided by the
54 person causing injury or to furnish relevant information required by the
55 department shall be a violation and shall constitute grounds for suspen-
56 sion or revocation of such person's hunting licenses and bowhunting and

1 muzzle-loading privileges and denial of the ability to obtain any such
2 license and of hunting with or without a license following a hearing or
3 opportunity to be heard. In addition, the department may temporarily
4 suspend the license of the person failing to report a hunting [accident]
5 RELATED INCIDENT within the period prescribed herein until such report
6 has been filed. In the case of a non-resident, the failure to report an
7 [accident] INCIDENT as herein provided shall constitute grounds for
8 suspension or revocation of his or her privileges of hunting within this
9 state. The report required by this section shall be made in such form
10 and number as the department may prescribe.

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

31 S 6. Paragraphs b and g of subdivision 3, subparagraphs 5, 6 and 8 of
32 paragraph b, subparagraphs 5, 6 and 8 of paragraph c, and subparagraph 1
33 of paragraph d of subdivision 4 of section 11-0901 of the environmental
34 conservation law, paragraph b of subdivision 3 as amended by chapter 911
35 of the laws of 1990, paragraph g of subdivision 3 as amended by chapter
36 34 of the laws of 1979, subparagraph 5 of paragraph b and subparagraph 5
37 of paragraph c of subdivision 4 as amended by chapter 430 of the laws of
38 2000 and subparagraphs 6 and 8 of paragraph b, subparagraphs 6 and 8 of
39 paragraph c and subparagraph 1 of paragraph d of subdivision 4 as
40 amended by chapter 600 of the laws of 1993, are amended to read as
41 follows:

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

49 g. Wildlife shall not be taken [by the use of a cross-bow, by a long
50 bow drawn, pulled, released, or held in a drawn position by any mechan-
51 ical device attached to a portion of the bow other than the bowstring,
52 or] by the use of a device commonly called a spear gun.

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

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

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

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

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

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

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

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

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

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

23 S 9. Subdivisions 2 and 4 of section 11-0931 of the environmental
24 conservation law, subdivision 2 as amended by section 7 of part H of
25 chapter 58 of the laws of 2012, subparagraph 3 of paragraph a of subdi-
26 vision 4 as added by chapter 400 of the laws of 1973 and subparagraph 4
27 of paragraph a of subdivision 4 as added by chapter 67 of the laws of
28 1976, are amended to read as follows:

29 2. No CROSSBOW OR firearm except a pistol or revolver shall be carried
30 or possessed in or on a motor vehicle unless it is UNCOCKED, FOR A
31 CROSSBOW OR unloaded, FOR A FIREARM in both the chamber and the maga-
32 zine, except that a loaded firearm which may be legally used for taking
33 migratory game birds may be carried or possessed in a motorboat while
34 being legally used in hunting migratory game birds, and no person except
35 a law enforcement officer in the performance of his official duties
36 shall, while in or on a motor vehicle, use a jacklight, spotlight or
37 other artificial light upon lands inhabited by deer if he is in
38 possession or is accompanied by a person who is in possession, at the
39 time of such use, of a longbow, crossbow or a firearm of any kind except
40 a pistol or revolver, unless such longbow OR CROSSBOW is unstrung or
41 such firearm OR CROSSBOW is taken down or securely fastened in a case or
42 locked in the trunk of the vehicle. For purposes of this subdivision,
43 motor vehicle shall mean every vehicle or other device operated by any
44 power other than muscle power, and which shall include but not be limit-
45 ed to automobiles, trucks, motorcycles, tractors, trailers and motor-
46 boats, snowmobiles and snowtravelers, whether operated on or off public
47 highways. Notwithstanding the provisions of this subdivision, the
48 department may issue a permit to any person who is non-ambulatory,
49 except with the use of a mechanized aid, to possess a loaded firearm in
50 or on a motor vehicle as defined in this section, subject to such
51 restrictions as the department may deem necessary in the interest of
52 public safety. Nothing in this section permits the possession of a
53 pistol or a revolver contrary to the penal law.

54 4. a. No person shall:

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

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

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

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

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

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

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

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

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

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

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

50 c. In the Northern Zone no person, while engaged in hunting with the
51 aid of a dog or while afield accompanied by a dog, shall possess a rifle
52 larger than .22 caliber using rim-fire ammunition or possess a shotgun
53 loaded with a slug, ball or buckshot, OR POSSESS A CROSSBOW; but this
54 paragraph does not apply to persons, engaged in coyote hunts with dogs
55 during any open season on coyotes established pursuant to the provisions
56 of section 11-0903 OF THIS TITLE.

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

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

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

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

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

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

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

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

39 S 15. Section 404-s of the vehicle and traffic law, as added by chap-
40 ter 304 of the laws of 2001, is amended by adding three new subdivisions
41 3, 4 and 5 to read as follows:

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

55 4. A PERSON WHO POSSESSES A LIFETIME LICENSE PURSUANT TO SECTION
56 11-0702 OF THE ENVIRONMENTAL CONSERVATION LAW OR A LIFETIME VEHICLE

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

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

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

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

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

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

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

50 E. ANY THREE OR FIVE-YEAR LICENSE ISSUED PURSUANT TO PARAGRAPH A OR B
51 OF SUBDIVISION THREE OF SECTION 11-0715 SHALL BE EFFECTIVE FOR THE
52 NUMBER OF LICENSE YEARS INDICATED THEREON BEGINNING ON SEPTEMBER FIRST
53 AND ENDING AUGUST THIRTY-FIRST; PROVIDED, HOWEVER, THAT A FISHING
54 LICENSE SHALL REMAIN EFFECTIVE FOR EITHER THREE OR FIVE YEARS FROM THE
55 DATE ON WHICH IT WAS ISSUED.

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

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

License	Fee
(1) (a) Hunting	\$22.00
(A-1) THREE-YEAR HUNTING	\$60.00
(A-2) FIVE-YEAR HUNTING	\$100.00
(b) Hunting ages fifteen and under	\$5.00
(2) (A) Fishing	\$25.00
(B) THREE-YEAR FISHING	\$70.00
(C) FIVE-YEAR FISHING	\$115.00
(3)(a) Trapping	\$20.00
(A-1) THREE-YEAR TRAPPING	\$55.00
(A-2) FIVE-YEAR TRAPPING	\$90.00
(b) Trapping ages fifteen and under	\$5.00
(4) (A) Muzzle-loading privilege	\$15.00
(B) THREE-YEAR MUZZLE-LOADING	\$40.00
(C) FIVE-YEAR MUZZLE-LOADING	\$65.00
(5)(a) Bowhunting privilege	\$15.00
(A-1) THREE-YEAR BOWHUNTING PRIVILEGE	\$40.00
(A-2) FIVE-YEAR BOWHUNTING PRIVILEGE	\$65.00
(b) Bowhunting privilege ages fifteen and under	\$4.00
(6) (A) Turkey permit	\$10.00
(B) THREE-YEAR TURKEY PERMIT	\$25.00
(C) FIVE-YEAR TURKEY PERMIT	\$40.00
(7) Seven-day fishing	[\$13.00] \$12.00
(8) One-day fishing	\$ 5.00

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

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

License	Fee
(1) (a) Hunting	\$100.00
(A-1) THREE-YEAR HUNTING	\$290.00
(A-2) FIVE-YEAR HUNTING	\$480.00
(b) Hunting ages fifteen and under	\$5.00
(2) (A) Fishing	\$50.00
(B) THREE-YEAR FISHING	\$140.00
(C) FIVE-YEAR FISHING	\$230.00
(3) Seven-day fishing	[\$31.00] \$28.00
(4)(a) Trapping	\$275.00
(A-1) THREE-YEAR TRAPPING	\$825.00
(A-2) FIVE-YEAR TRAPPING	\$1,375.00
(b) Trapping ages fifteen and under	\$5.00
(5)(a) Bowhunting privilege	\$30.00
(A-1) THREE-YEAR BOWHUNTING PRIVILEGE	\$80.00
(A-2) FIVE-YEAR BOWHUNTING PRIVILEGE	\$130.00
(b) Bowhunting privilege ages fifteen and under	\$4.00
(6) (A) Muzzle-loading	\$30.00
(B) THREE-YEAR MUZZLE-LOADING	\$80.00

1	(C) FIVE-YEAR MUZZLE-LOADING	\$130.00
2	(7) (A) Turkey permit	\$20.00
3	(B) THREE-YEAR TURKEY PERMIT	\$55.00
4	(C) FIVE-YEAR TURKEY PERMIT	\$90.00
5	(8) One-day fishing	\$10.00

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

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

10

PART J

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

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

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

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

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

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

47 (B) WHERE A HEARING IS REQUESTED, THE PROVISIONAL LICENSE SHALL
48 CONTINUE IN FORCE UNTIL THE DETERMINATION OF SAID HEARING. SHOULD THE
49 APPLICANT PREVAIL, THE PROVISIONAL LICENSE SHALL CONVERT INTO A TWO-YEAR
50 LICENSE, RUNNING FROM THE DATE OF THE ISSUANCE OF THE PROVISIONAL
51 LICENSE. SHOULD THE DEPARTMENT PREVAIL, THE PROVISIONAL LICENSE SHALL
52 TERMINATE AND NO LICENSE SHALL ISSUE.

53 S 2. This act shall take effect immediately.

1

PART K

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

33

PART L

34 Section 1. Notwithstanding any law to the contrary, the comptroller is
35 hereby authorized and directed to receive for deposit to the credit of
36 the general fund the amount of up to \$913,000 from the New York state
37 energy research and development authority.
38 S 2. This act shall take effect immediately and shall be deemed to
39 have been in full force and effect on and after April 1, 2014.

40

PART M

41 Section 1. Legislative findings. The legislature hereby finds and
42 determines:
43 1. In 2011 and 2012, three storms of enormous magnitude - Hurricane
44 Irene, Tropical Storm Lee and Superstorm Sandy - each battered New York,
45 causing billions of dollars of damage to roads, buildings and other
46 infrastructure. The three storms collectively resulted in millions of
47 residential, business and industrial customers of electric utilities
48 losing electricity for extended periods of time.
49 2. Each of these storms caused, among other things, a disruption in
50 the distribution and supply of motor fuels, and in the case of Super-

1 storm Sandy, downstate motorists were unable to obtain routine supplies
2 of fuel for several weeks.

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

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

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

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

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

25 1. Definitions. When used in this section:

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

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

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

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

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

50 (f) "Downstate region" means each of the following regions of the
51 state:

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

53 (ii) Lower Mid-Hudson region: Includes Rockland and Westchester coun-
54 ties.

55 (iii) New York city region: Includes Bronx, Kings, New York, Queens
56 and Richmond counties.

(g) "Evacuation route" means those roads designated by each county, AND RECOGNIZED BY THE STATE, that are to be used by motorists in case of a hurricane or other natural disaster.

(h) "Franchisor" means a person or company that grants a franchise to a franchisee.

(i) "Gasoline" means any fuel sold in this state for use in internal combustion engines which is commercially known or offered for sale as gasoline, whether or not blended with ethanol or other chemicals.

(j) "Motor fuel" means any petroleum product, including any gasoline or diesel motor fuel, which is used for the propulsion of motor vehicles.

(k) "Retailer" means any person who owns, operates, or controls a retail outlet that is subject to the requirements of subdivision two of this section.

(l) "Retail outlet" means a facility, including all land, improvements and associated structures and equipment, that dispenses motor fuel for sale to the general public.

(M) "STRATEGIC UPSTATE HIGHWAYS" MEANS THE FOLLOWING:

(I) I-87 BEGINNING AT THE ROCKLAND-ORANGE COUNTY LINE THENCE NORTHERLY PASSING THROUGH OR IN THE VICINITY OF ALBANY TO THE INTERSECTION WITH I-90, THE FOREGOING ROUTE BEING A PORTION OF THE NEW YORK STATE THRUWAY; THENCE CONTINUING NORTHERLY TO THE NEW YORK-CANADA BORDER;

(II) I-90 BEGINNING AT I-87 IN THE VICINITY OF ALBANY THENCE WESTERLY PASSING THROUGH OR IN THE VICINITY OF SCHENECTADY, UTICA, SYRACUSE, ROCHESTER, AND BUFFALO; THENCE CONTINUING SOUTHWESTERLY TO THE NEW YORK-PENNSYLVANIA BORDER, THE FOREGOING ROUTE BEING A PORTION OF THE NEW YORK STATE THRUWAY;

(III) THE BERKSHIRE SECTION OF THE NEW YORK STATE THRUWAY BEGINNING AT I-87 THENCE EASTERLY TO THE INTERSECTION WITH I-90 AND CONTINUING ON I-90 TO THE NEW YORK-MASSACHUSETTS BORDER;

(IV) I-84 BEGINNING AT THE NEW YORK-NEW JERSEY BORDER THENCE EASTERLY PASSING THROUGH OR IN THE VICINITY OF NEWBURGH, THENCE CONTINUING EASTERLY AND SOUTHEASTERLY TO THE NEW YORK-CONNECTICUT BORDER;

(V) I-88 BEGINNING AT I-81 IN THE VICINITY OF BINGHAMTON THENCE NORTHEASTERLY TO I-90 IN THE VICINITY OF SCHENECTADY;

(VI) I-86/STATE ROUTE 17 BEGINNING AT I-87 IN THE VICINITY OF WOODBURY THENCE WESTERLY AND NORTHWESTERLY PASSING THROUGH OR IN THE VICINITY OF BINGHAMTON, ELMIRA, AND JAMESTOWN, CONTINUING TO THE NEW YORK-PENNSYLVANIA BORDER;

(VII) I-81 BEGINNING AT THE NEW YORK-PENNSYLVANIA BORDER THENCE NORTHERLY PASSING THROUGH OR IN THE VICINITY OF SYRACUSE AND WATERTOWN, CONTINUING TO THE NEW YORK-CANADA BORDER;

(VIII) I-390 BEGINNING AT I-86 IN THE VICINITY OF AVOCA THENCE NORTHWESTERLY AND NORTHERLY IN I-490 IN THE VICINITY OF ROCHESTER; AND

(IX) I-190 BEGINNING AT I-90 IN THE VICINITY OF BUFFALO, THENCE WESTERLY, NORTHWESTERLY, AND NORTHERLY THROUGH BUFFALO, ACROSS GRAND ISLAND, THE FOREGOING ROUTE BEING A PORTION OF THE NEW YORK STATE THRUWAY, AND THENCE GENERALLY WESTERLY TO THE UNITED STATES-CANADA BORDER IN THE VICINITY OF LEWISTON.

(N) "UPSTATE REGION" MEANS ANY COUNTY OF THE STATE THAT IS NOT PART OF THE DOWNSTATE REGION.

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

(i) each retail outlet in operation on the effective date of this section that is located within one-half mile by road measurement from an

1 exit road on a controlled access highway or from an evacuation route
2 shall be prewired by no later than April first, two thousand fourteen;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-a. Declaration of energy or fuel supply emergency. Upon issuance of a declaration of an energy or fuel supply emergency pursuant to this subdivision, a county executive of a county [in the downstate region] WHOSE RETAIL OUTLETS ARE SUBJECT TO THE PROVISIONS OF THIS SECTION or mayor of a city with a population in excess of one million inhabitants who declared such emergency shall promptly notify the president of the New York state energy research and development authority, the commissioner of homeland security and emergency services, and impacted residents using such means as are practicable and efficient.

4. Plan for alternate generated power source. Each retailer subject to subdivision three of this section shall by the date of the installation of the prewiring and transfer switch required under subdivision two of

1 this section have in place at each applicable retail outlet documenta-
2 tion in a form approved by the department demonstrating a plan to deploy
3 and install an alternate generated power source located at such retail
4 outlet as required under subdivision three of this section. Such plan
5 shall take one of the following forms:

6 (a) a receipt or other documentation showing ownership of such power
7 source;

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

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

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

42 6. Rules and regulations; notification of applicability. The commis-
43 sioner shall have the authority, with the assistance of the commissioner
44 of transportation, the commissioner of homeland security and emergency
45 services, the president of the New York state energy research and devel-
46 opment authority, the secretary of state and the chair of the public
47 service commission, to promulgate such rules and regulations as the
48 commissioner shall deem necessary to effectuate the purposes of this
49 section. The commissioner shall by June first, two thousand thirteen:

50 (a) notify by first class mail all existing retail outlets that appear
51 to meet the criteria specified in subdivision two of this section of the
52 requirements of this section and include with such notification any
53 other information deemed necessary by the commissioner, including infor-
54 mation regarding applicability criteria, compliance measures and poten-
55 tial grant assistance; (b) provide a list of all such retail outlets to
56 the governor, the temporary president of the senate and the speaker of

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

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

47 Notwithstanding the foregoing, such retailer shall not be in violation
48 of subdivision three of this section if he or she is unable to deploy,
49 install or operate an alternate generated power source because of uncon-
50 trollable circumstances, including but not limited to, restrictions
51 imposed by public safety officers to address an emergency situation or
52 that such retail station is made unsafe or unable to operate due to acts
53 of God, fires, floods, explosions or the safety of personnel needed to
54 operate such retail outlet. Additionally, such retailer shall not be in
55 violation of subdivision three of this section if he or she is a partic-
56 ipant in the program established under subdivision twenty-one of section

1 eight hundred fifty-four of the public authorities law and a genera-
2 tor is not provided to the retailer due to the prioritization allowed
3 under such subdivision or through no fault of the retailer.

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

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

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

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

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

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

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

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

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

52 (c) to the extent funds are available, for retail outlets that become
53 operational on or after April first, two thousand fourteen, or to which
54 subdivision two of section one hundred ninety-two-h of the agriculture
55 and markets law becomes applicable after the effective date of this
56 subdivision, which grants shall otherwise be subject to the same

1 amounts, purposes and restrictions as paragraphs (a) and (b) of this
2 subdivision.

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

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

30 S 4. This act shall take effect immediately.

31 PART N

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

38 S 2. This act shall take effect immediately, provided however, that
39 section one of this act shall be deemed to have been in full force and
40 effect on and after April 1, 2003 and shall expire March 31, [2014]
41 2015.

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

44 PART O

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

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

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

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

8 S 3. This act shall take effect immediately.

9 PART P

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

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

21 S 2. This act shall take effect immediately.

22 PART Q

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

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

30 PART R

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

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

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

43 (II) APPLICATION OF A PROVISION IS NOT NECESSARY FOR PROTECTION OF
44 CONSUMERS; AND

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

48 (B) ANY TELEPHONE CORPORATION OR SUCH CLASS OF TELEPHONE CORPORATIONS
49 MAY PETITION THE COMMISSION FOR EXERCISE OF THE AUTHORITY GRANTED UNDER
50 THIS SUBDIVISION.

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

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

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

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

48 2. A FRANCHISE SHALL BE DEEMED GRANTED FORTY-FIVE DAYS AFTER THE FRAN-
49 CHISE IS FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION UNLESS THE
50 COMMISSION, OR ITS DESIGNEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY PERI-
51 OD THAT THE PUBLIC INTEREST REQUIRES THE COMMISSION'S REVIEW AND WRITTEN
52 ORDER.

53 [2.] 3. The commission may hold a public hearing on any application
54 for a certificate of confirmation if it determines that such a hearing
55 is in the public interest. The commission shall fix the time and place
56 for such a hearing and cause notice thereof to be given to the appli-

1 cant, the chief executive officer of the municipality issuing the fran-
2 chise and such other persons as the commission may deem appropriate.
3 Testimony may be taken and evidence received at such a hearing pursuant
4 to such rules and procedures as the commission may establish.

5 [3.] 4. [The commission shall issue a] A certificate of confirmation
6 of the franchise [unless it finds that (a) the applicant, (b) the
7 proposed cable television system, or (c) the proposed franchise does not
8 conform to the standards established in the regulations promulgated by
9 the commission pursuant to subdivision two of section two hundred
10 fifteen, or that operation of the proposed cable television system by
11 the applicant under the proposed cable television system by the appli-
12 cant under the proposed franchise would be in violation of law, any
13 regulation or standard promulgated by the commission or the public
14 interest.] SHALL BE DEEMED CONFIRMED FORTY-FIVE DAYS AFTER THE FRANCHISE
15 IS FILED PURSUANT TO SUBDIVISION ONE OF THIS SECTION UNLESS THE COMMIS-
16 SION, OR ITS DESIGNEE, DETERMINES WITHIN SUCH FORTY-FIVE DAY PERIOD THAT
17 THE PUBLIC INTEREST REQUIRES THE COMMISSION'S REVIEW AND WRITTEN ORDER.

18 [4.] 5. The commission may issue a certificate of confirmation contin-
19 gent upon compliance with standards, terms or conditions set by the
20 commission which it determines would not have been met by the applicant,
21 system or franchise as proposed.

22 [5.] 6. In the event the commission refuses to issue a certificate of
23 confirmation, it shall set forth in writing the reasons for its deci-
24 sion.

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

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

55 8. Nothing in this section shall be deemed to validate a franchise not
56 granted in accordance with law or affect any claims in litigation on

1 January first, nineteen hundred seventy-three. No confirmation under
2 this section shall preclude invalidation of any franchise illegally
3 obtained.

4 9.] 7. Confirmation by the commission and duties performed by the
5 commission with respect to its regulation of cable television providers
6 under this article shall not be deemed to constitute "supervision of the
7 state department of public service" for the purpose of the meaning of
8 such phrase as it is used in describing those utilities which are
9 subject to tax on a gross income basis under section one hundred eight-
10 y-six-a of the tax law or pursuant to section twenty-b of the general
11 city law and subdivision one of section [five hundred thirty] 5-530 of
12 the village law.

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

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

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

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

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

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

48 3. THE COMMISSION SHALL APPROVE THE APPLICATION UNLESS IT FINDS THAT
49 THE APPLICANT, THE PROPOSED TRANSFEREE OR THE CABLE TELEVISION SYSTEM
50 DOES NOT CONFORM TO THE STANDARDS ESTABLISHED IN THE REGULATIONS PROMUL-
51 GATED BY THE COMMISSION PURSUANT TO THIS ARTICLE OR THAT APPROVAL WOULD
52 BE IN VIOLATION OF LAW, ANY REGULATION OR STANDARD PROMULGATED BY THE
53 COMMISSION OR THE PUBLIC INTEREST, PROVIDED HOWEVER, THAT A FAILURE TO
54 CONFORM TO THE STANDARDS ESTABLISHED IN THE REGULATIONS PROMULGATED BY
55 THE COMMISSION SHALL NOT PRECLUDE APPROVAL OF ANY SUCH APPLICATION IF
56 THE COMMISSION FINDS THAT SUCH APPROVAL WOULD SERVE THE PUBLIC INTEREST.

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

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

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

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

12 PART S

13 Section 1. Paragraphs (a) and (b) of subdivision 6 of section 18-a of
14 the public service law, paragraph (a) as amended by section 1 of part BB
15 of chapter 59 of the laws of 2013 and paragraph (b) as amended by
16 section 2 of part A of chapter 173 of the laws of 2013, are amended to
17 read as follows:

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

42 (b) The temporary state energy and utility service conservation
43 assessment shall APPLY ONLY TO THOSE CORPORATIONS AND GROSS OPERATING
44 REVENUES NOT EXEMPTED IN PARAGRAPH (A) OF THIS SUBDIVISION AND SHALL be
45 based upon the following percentum of the utility entity's gross operat-
46 ing revenues derived from intrastate utility operations in the last
47 preceding calendar year, minus the amount, if any, that such utility
48 entity is assessed pursuant to subdivisions one and two of this section
49 for the corresponding state fiscal year period: (1) two percentum for
50 the state fiscal year beginning April first, two thousand thirteen;
51 [and] (2) 1.89 PERCENTUM FOR the state fiscal year beginning April
52 first, two thousand fourteen; [(2) one and three-quarters] (3) 1.13
53 percentum for the state fiscal year beginning April first, two thousand
54 fifteen; and [(3) one and one-half] (4) 0.83 percentum for the state

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

1 state energy and utility service conservation assessment. The minimum
2 temporary state energy and utility service conservation assessment to be
3 billed to any utility entity whose gross revenues from intrastate utili-
4 ty operations are in excess of five hundred thousand dollars in the
5 preceding calendar year shall be two hundred dollars.

6 S 2. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2014; provided,
8 however, that the amendments to subdivision 6 of section 18-a of the
9 public service law made by section one of this act shall not affect the
10 repeal of such subdivision and shall be deemed to be repealed therewith.

11 PART T

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

14 In this [chapter] ARTICLE:

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

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

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

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

47 (1) has ADMITTED TO, OR been FOUND guilty of, professional [or other]
48 misconduct [or incompetency], AS DEFINED IN THE EDUCATION LAW, in
49 connection with [medical] HEALTH services rendered under this article;
50 [or]

51 (2) [has exceeded the limits of his or her professional competence in
52 rendering medical care under this article or] has knowingly made a false
53 statement or representation as to a material fact in any medical report

1 made, OR DOCUMENT SUBMITTED, in connection with any claim under this
2 article; or

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

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

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

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

16 (B) UNNECESSARY HEALTH SERVICES;

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

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

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

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

33 (10) HAS BEEN CONVICTED OF A CRIME INVOLVING FRAUDULENT OR DISHONEST
34 PRACTICES; OR

35 (11) VIOLATED ANY PROVISION OF THIS ARTICLE OR REGULATIONS PROMULGATED
36 THEREUNDER.

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

51 (d) The [commissioner of health and the commissioner of education]
52 SUPERINTENDENT shall maintain [and regularly update] a database contain-
53 ing a list of providers of health services prohibited by this section
54 from demanding or requesting any payment for health services [connected
55 to a claim] RENDERED under this article and shall make [such] THE infor-

1 mation available to the public [by means of a website and by a toll free
2 number].

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

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

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

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

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

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

49 (B)(1) WHENEVER THE SUPERINTENDENT SHALL DETERMINE TO EXAMINE THE
50 AFFAIRS OF ANY PROVIDER OF HEALTH SERVICES, THE SUPERINTENDENT SHALL
51 MAKE AN ORDER INDICATING THE SCOPE OF THE EXAMINATION AND MAY APPOINT AS
52 EXAMINERS ONE OR MORE PERSONS NOT EMPLOYED BY ANY PROVIDER OF HEALTH
53 SERVICES OR INSURER OR INTERESTED IN ANY PROVIDER OF HEALTH SERVICES OR
54 INSURER, EXCEPT AS A POLICYHOLDER. A COPY OF SUCH ORDER SHALL UPON
55 DEMAND BE EXHIBITED TO THE PROVIDER OF HEALTH SERVICES WHOSE AFFAIRS ARE
56 TO BE EXAMINED BEFORE THE EXAMINATION BEGINS.

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

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

(4) THE REFUSAL OF ANY PROVIDER OF HEALTH SERVICES TO SUBMIT TO EXAMINATION SHALL BE GROUNDS FOR THE SUPERINTENDENT PROHIBITING THE PROVIDER OF HEALTH SERVICES FROM DEMANDING OR REQUESTING PAYMENT FOR HEALTH SERVICES RENDERED UNDER THIS ARTICLE PURSUANT TO SECTION FIVE THOUSAND ONE HUNDRED NINE OF THIS ARTICLE.

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

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

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

PART U

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

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

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

(13) where applicable, notice that an insured enrolled in a managed care product OR A COMPREHENSIVE POLICY THAT UTILIZES A NETWORK OF PROVIDERS offered by the insurer with [(i)] (A) a life-threatening condition or disease, or [(ii)] (B) a degenerative and disabling condition or disease, either of which requires specialized medical care over a prolonged period of time may request a specialist responsible for providing or coordinating the insured's medical care and the procedure for requesting and obtaining such a specialist;

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

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

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

(17) where applicable, a listing by specialty, which may be in a separate document that is updated annually, of the name, address, and telephone number of all participating providers, including facilities, and in addition, in the case of physicians, board certification[.], LANGUAGES SPOKEN AND ANY AFFILIATIONS WITH PARTICIPATING HOSPITALS. THE LISTING SHALL ALSO BE POSTED ON THE INSURER'S WEBSITE AND THE INSURER SHALL UPDATE THE WEBSITE WITHIN FIFTEEN DAYS OF THE ADDITION OR TERMINATION OF A PROVIDER FROM THE INSURER'S NETWORK OR A CHANGE IN A PHYSICIAN'S HOSPITAL AFFILIATION;

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

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

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

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

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

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

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

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

(12) disclose such other information as required by the superintendent, provided that such requirements are promulgated pursuant to the state administrative procedure act[.];

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

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

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

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

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

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

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

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

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

41 S 3241. NETWORK COVERAGE. (A) AN INSURER, A CORPORATION ORGANIZED
42 PURSUANT TO ARTICLE FORTY-THREE OF THIS CHAPTER, A MUNICIPAL COOPERATIVE
43 HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THIS
44 CHAPTER, OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT TO
45 SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER, THAT
46 ISSUES A HEALTH INSURANCE POLICY OR CONTRACT WITH A NETWORK OF HEALTH
47 CARE PROVIDERS SHALL ENSURE THAT THE NETWORK IS ADEQUATE TO MEET THE
48 HEALTH NEEDS OF INSUREDS AND PROVIDE AN APPROPRIATE CHOICE OF PROVIDERS
49 SUFFICIENT TO RENDER THE SERVICES COVERED UNDER THE POLICY OR CONTRACT.
50 THE SUPERINTENDENT SHALL REVIEW THE NETWORK OF HEALTH CARE PROVIDERS FOR
51 ADEQUACY AT THE TIME OF THE SUPERINTENDENT'S INITIAL APPROVAL OF A
52 HEALTH INSURANCE POLICY OR CONTRACT; AT LEAST EVERY THREE YEARS THERE-
53 AFTER; AND UPON APPLICATION FOR EXPANSION OF ANY SERVICE AREA ASSOCIATED
54 WITH THE POLICY OR CONTRACT IN CONFORMANCE WITH THE STANDARDS SET FORTH
55 IN SUBDIVISION FIVE OF SECTION FOUR THOUSAND FOUR HUNDRED THREE OF THE
56 PUBLIC HEALTH LAW. TO THE EXTENT THAT THE NETWORK HAS BEEN DETERMINED

1 BY THE COMMISSIONER OF HEALTH TO MEET THE STANDARDS SET FORTH IN SUBDI-
2 VISION FIVE OF SECTION FOUR THOUSAND FOUR HUNDRED THREE OF THE PUBLIC
3 HEALTH LAW, SUCH NETWORK SHALL BE DEEMED ADEQUATE BY THE SUPERINTENDENT.

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

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

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

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

42 (C) WHEN AN INSURED OR ENROLLEE UNDER A CONTRACT OR POLICY THAT
43 PROVIDES COVERAGE FOR EMERGENCY SERVICES RECEIVES THE SERVICES FROM A
44 HEALTH CARE PROVIDER THAT DOES NOT PARTICIPATE IN THE PROVIDER NETWORK
45 OF AN INSURER, A CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE
46 OF THIS CHAPTER, A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED
47 PURSUANT TO ARTICLE FORTY-SEVEN OF THIS CHAPTER, A HEALTH MAINTENANCE
48 ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC
49 HEALTH LAW, OR A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT
50 TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THIS CHAPTER ("HEALTH
51 CARE PLAN"), THE HEALTH CARE PLAN SHALL ENSURE THAT THE INSURED OR
52 ENROLLEE SHALL INCUR NO GREATER OUT-OF-POCKET COSTS FOR THE EMERGENCY
53 SERVICES THAN THE INSURED OR ENROLLEE WOULD HAVE INCURRED WITH A HEALTH
54 CARE PROVIDER THAT PARTICIPATES IN THE HEALTH CARE PLAN'S PROVIDER
55 NETWORK. FOR THE PURPOSE OF THIS SECTION, "EMERGENCY SERVICES" SHALL
56 HAVE THE MEANING SET FORTH IN SUBPARAGRAPH (D) OF PARAGRAPH NINE OF

1 SUBSECTION (I) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS
2 ARTICLE, SUBPARAGRAPH (D) OF PARAGRAPH FOUR OF SUBSECTION (K) OF SECTION
3 THREE THOUSAND TWO HUNDRED TWENTY-ONE OF THIS ARTICLE, AND SUBPARAGRAPH
4 (D) OF PARAGRAPH TWO OF SUBSECTION (A) OF SECTION FOUR THOUSAND THREE
5 HUNDRED THREE OF THIS CHAPTER.

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

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

23 S 8. Paragraphs 11, 12, 13, 14, 16-a, 17, and 18 of subsection (a) of
24 section 4324 of the insurance law, paragraphs 11, 12, 13, 14, 17 and 18
25 as added by chapter 705 of the laws of 1996, paragraph 16-a as added by
26 chapter 554 of the laws of 2002, are amended and three new paragraphs
27 19, 20 and 21 are added to read as follows:

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

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

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

52 (14) where applicable, notice that a subscriber enrolled in a managed
53 care product OR A COMPREHENSIVE CONTRACT THAT UTILIZES A NETWORK OF
54 PROVIDERS offered by the corporation with [(i)] (A) a life-threatening
55 condition or disease, or [(ii)] (B) a degenerative and disabling condi-
56 tion or disease, either of which requires specialized medical care over

1 a prolonged period of time may request access to a specialty care center
2 and the procedure by which such access may be obtained;

3 (16-a) where applicable, notice that an enrollee shall have direct
4 access to primary and preventive obstetric and gynecologic services,
5 INCLUDING ANNUAL EXAMINATIONS, CARE RESULTING FROM SUCH ANNUAL EXAMINA-
6 TIONS, AND TREATMENT OF ACUTE GYNECOLOGIC CONDITIONS, from a qualified
7 provider of such services of her choice from within the plan [for no
8 fewer than two examinations annually for such services] or [to] FOR any
9 care related to A pregnancy [and that additionally, the enrollee shall
10 have direct access to primary and preventive obstetric and gynecologic
11 services required as a result of such annual examinations or as a result
12 of an acute gynecologic condition];

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

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

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

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

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

29 (B) A DESCRIPTION OF THE AMOUNT THAT THE CORPORATION WILL REIMBURSE
30 UNDER THE METHODOLOGY FOR OUT-OF-NETWORK HEALTH CARE SERVICES SET FORTH
31 AS A PERCENTAGE OF THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK
32 HEALTH CARE SERVICES; AND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

51 (b) A utilization review agent shall make a utilization review deter-
52 mination involving health care services which require pre-authorization
53 and provide notice of a determination to the insured or insured's desig-
54 nee and the insured's health care provider by telephone and in writing
55 within three business days of receipt of the necessary information. To
56 the extent practicable, such written notification to the enrollee's

1 health care provider shall be transmitted electronically, in a manner
2 and in a form agreed upon by the parties. THE NOTIFICATION SHALL IDEN-
3 TIFY: (1) WHETHER THE SERVICES ARE CONSIDERED IN-NETWORK OR OUT-OF-NET-
4 WORK; (2) WHETHER THE INSURED WILL BE HELD HARMLESS FOR THE SERVICES AND
5 NOT BE RESPONSIBLE FOR ANY PAYMENT, OTHER THAN ANY APPLICABLE CO-PAY-
6 MENT, CO-INSURANCE OR DEDUCTIBLE; (3) AS APPLICABLE, THE DOLLAR AMOUNT
7 THE HEALTH CARE PLAN WILL PAY IF THE SERVICE IS OUT-OF-NETWORK; AND (4)
8 AS APPLICABLE, INFORMATION EXPLAINING HOW AN INSURED MAY DETERMINE THE
9 ANTICIPATED OUT-OF-POCKET COST FOR OUT-OF-NETWORK HEALTH CARE SERVICES
10 IN A GEOGRAPHICAL AREA OR ZIP CODE BASED UPON THE DIFFERENCE BETWEEN
11 WHAT THE HEALTH CARE PLAN WILL REIMBURSE FOR OUT-OF-NETWORK HEALTH CARE
12 SERVICES AND THE USUAL AND CUSTOMARY COST FOR OUT-OF-NETWORK HEALTH CARE
13 SERVICES.

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

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

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

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

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

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

47 (D) FOR EXTERNAL APPEALS REQUESTED PURSUANT TO PARAGRAPH FOUR OF
48 SUBSECTION (B) OF SECTION FOUR THOUSAND NINE HUNDRED TEN OF THIS TITLE
49 RELATING TO AN OUT-OF-NETWORK REFERRAL DENIAL, THE EXTERNAL APPEAL AGENT
50 SHALL REVIEW THE UTILIZATION REVIEW AGENT'S FINAL ADVERSE DETERMINATION
51 AND, IN ACCORDANCE WITH THE PROVISIONS OF THIS TITLE, SHALL MAKE A
52 DETERMINATION AS TO WHETHER THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED
53 BY THE HEALTH PLAN; PROVIDED THAT SUCH DETERMINATION SHALL:

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

56 (II) BE ACCOMPANIED BY A WRITTEN STATEMENT:

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

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

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

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

20 (V) BE ADMISSIBLE IN ANY COURT PROCEEDING.

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

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

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

28 S 24. DISCLOSURE. 1. A HEALTH CARE PROFESSIONAL SHALL DISCLOSE TO
29 PATIENTS OR PROSPECTIVE PATIENTS IN WRITING OR THROUGH AN INTERNET
30 WEBSITE THE HEALTH CARE PLANS IN WHICH THE HEALTH CARE PROFESSIONAL IS A
31 PARTICIPATING PROVIDER AND THE HOSPITALS WITH WHICH THE HEALTH CARE
32 PROFESSIONAL IS AFFILIATED PRIOR TO THE PROVISION OF NON-EMERGENCY
33 SERVICES AND VERBALLY AT THE TIME AN APPOINTMENT IS SCHEDULED.

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

46 3. A HEALTH CARE PROFESSIONAL WHO IS A PHYSICIAN SHALL PROVIDE A
47 PATIENT OR PROSPECTIVE PATIENT WITH THE NAME, PRACTICE NAME, MAILING
48 ADDRESS, AND TELEPHONE NUMBER OF ANY HEALTH CARE PROVIDER SCHEDULED TO
49 PERFORM ANESTHESIOLOGY, LABORATORY, PATHOLOGY, RADIOLOGY OR ASSISTANT
50 SURGEON SERVICES IN CONNECTION WITH CARE TO BE PROVIDED IN THE PHYSI-
51 CIAN'S OFFICE FOR THE PATIENT OR COORDINATED OR REFERRED BY THE PHYSI-
52 CIAN FOR THE PATIENT PRIOR TO THE PROVISION OF SERVICES.

53 4. A HEALTH CARE PROFESSIONAL WHO IS A PHYSICIAN SHALL, FOR A
54 PATIENT'S SCHEDULED HOSPITAL ADMISSION OR SCHEDULED OUTPATIENT HOSPITAL
55 SERVICES, PROVIDE A PATIENT AND THE HOSPITAL WITH THE NAME, PRACTICE
56 NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF ANY OTHER PHYSICIAN WHOSE

SERVICES WILL BE ARRANGED BY THE PHYSICIAN AND ARE SCHEDULED AT THE TIME OF THE PRE-ADMISSION TESTING, REGISTRATION OR ADMISSION PRIOR TO THE PROVISION OF SERVICES; AND INFORMATION AS TO HOW TO DETERMINE THE HEALTHCARE PLANS IN WHICH THE PHYSICIAN PARTICIPATES.

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

6. A HOSPITAL SHALL POST ON THE HOSPITAL'S WEBSITE: (A) THE HEALTH CARE PLANS IN WHICH THE HOSPITAL IS A PARTICIPATING PROVIDER; (B) A STATEMENT THAT (I) PHYSICIAN SERVICES PROVIDED IN THE HOSPITAL ARE NOT INCLUDED IN THE HOSPITAL'S CHARGES; (II) PHYSICIANS WHO PROVIDE SERVICES IN THE HOSPITAL MAY OR MAY NOT PARTICIPATE WITH THE SAME HEALTH CARE PLANS AS THE HOSPITAL, AND; (III) THE PROSPECTIVE PATIENT SHOULD CHECK WITH THE PHYSICIAN ARRANGING FOR THE HOSPITAL SERVICES TO DETERMINE THE HEALTH CARE PLANS IN WHICH THE PHYSICIAN PARTICIPATES; (C) AS APPLICABLE, THE NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF THE PHYSICIAN GROUPS THAT THE HOSPITAL HAS CONTRACTED WITH TO PROVIDE SERVICES INCLUDING ANESTHESIOLOGY, PATHOLOGY OR RADIOLOGY, AND INSTRUCTIONS HOW TO CONTACT THESE GROUPS TO DETERMINE THE HEALTH CARE PLAN PARTICIPATION OF THE PHYSICIANS IN THESE GROUPS; AND (D) AS APPLICABLE, THE NAME, MAILING ADDRESS, AND TELEPHONE NUMBER OF PHYSICIANS EMPLOYED BY THE HOSPITAL AND WHOSE SERVICES MAY BE PROVIDED AT THE HOSPITAL, AND THE HEALTH CARE PLANS IN WHICH THEY PARTICIPATE.

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

8. FOR PURPOSES OF THIS SUBDIVISION:

(A) "HEALTH CARE PLAN" MEANS A HEALTH INSURER INCLUDING AN INSURER LICENSED TO WRITE ACCIDENT AND HEALTH INSURANCE SUBJECT TO ARTICLE THIRTY-TWO OF THE INSURANCE LAW; A CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE OF THE INSURANCE LAW; A MUNICIPAL COOPERATIVE HEALTH BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE LAW; A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THIS CHAPTER; A STUDENT HEALTH PLAN ESTABLISHED OR MAINTAINED PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-FOUR OF THE INSURANCE LAW OR A SELF-FUNDED EMPLOYEE WELFARE BENEFIT PLAN.

(B) "HEALTH CARE PROFESSIONAL" MEANS AN APPROPRIATELY LICENSED, REGISTERED OR CERTIFIED HEALTH CARE PROFESSIONAL PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW.

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

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

16 S 18. Paragraphs (k), (p-1), (q) and (r) of subdivision 1 of section
17 4408 of the public health law, paragraphs (k), (q) and (r) as added by
18 chapter 705 of the laws of 1996, and paragraph (p-1) as added by chapter
19 554 of the laws of 2002, are amended and three new paragraphs (s), (t)
20 and (u) are added to read as follows:

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

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

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

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

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

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

54 (I) A CLEAR DESCRIPTION OF THE METHODOLOGY USED BY THE HEALTH MAINTE-
55 NANCE ORGANIZATION TO DETERMINE REIMBURSEMENT FOR OUT-OF-NETWORK HEALTH
56 CARE SERVICES;

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

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

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

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

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

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

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

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

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

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

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

7-G. "OUT-OF-NETWORK REFERRAL DENIAL" MEANS A DENIAL OF A REQUEST FOR AN AUTHORIZATION OR REFERRAL TO AN OUT-OF-NETWORK PROVIDER ON THE BASIS THAT THE HEALTH CARE PLAN HAS A HEALTH CARE PROVIDER IN THE IN-NETWORK BENEFITS PORTION OF ITS NETWORK WITH APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE, AND WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE. THE NOTICE OF AN OUT-OF-NETWORK REFERRAL DENIAL PROVIDED TO AN ENROLLEE SHALL INCLUDE INFORMATION EXPLAINING WHAT INFORMATION THE ENROLLEE MUST SUBMIT IN ORDER TO APPEAL THE OUT-OF-NETWORK REFERRAL DENIAL PURSUANT TO SUBDIVISION ONE-B OF SECTION FOUR THOUSAND NINE HUNDRED FOUR OF THIS ARTICLE. AN OUT-OF-NETWORK REFERRAL DENIAL UNDER THIS SUBDIVISION DOES NOT CONSTITUTE AN ADVERSE DETERMINATION AS DEFINED IN THIS ARTICLE. AN OUT-OF-NETWORK REFERRAL DENIAL SHALL NOT BE CONSTRUED TO INCLUDE AN OUT-OF-NETWORK DENIAL AS DEFINED IN SUBDIVISION SEVEN-F OF THIS SECTION.

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

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

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

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

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

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

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

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

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

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

(II) BE ACCOMPANIED BY A WRITTEN STATEMENT:

(1) THAT THE OUT-OF-NETWORK REFERRAL SHALL BE COVERED BY THE HEALTH CARE PLAN EITHER WHEN THE REVIEWER OR A MAJORITY OF THE PANEL OF REVIEWERS DETERMINES, UPON REVIEW OF THE TRAINING AND EXPERIENCE OF THE IN-NETWORK HEALTH CARE PROVIDER OR PROVIDERS PROPOSED BY THE PLAN, THE TRAINING AND EXPERIENCE OF THE REQUESTED OUT-OF-NETWORK PROVIDER, THE CLINICAL STANDARDS OF THE PLAN, THE INFORMATION PROVIDED CONCERNING THE ENROLLEE, THE ATTENDING PHYSICIAN'S RECOMMENDATION, THE ENROLLEE'S MEDICAL RECORD, AND ANY OTHER PERTINENT INFORMATION, THAT THE HEALTH PLAN DOES NOT HAVE A PROVIDER WITH THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE WHO IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE, AND THAT THE OUT-OF-NETWORK PROVIDER HAS THE APPROPRIATE TRAINING AND EXPERIENCE TO MEET THE PARTICULAR HEALTH CARE NEEDS OF AN ENROLLEE, IS ABLE TO PROVIDE THE REQUESTED HEALTH SERVICE, AND IS LIKELY TO PRODUCE A MORE CLINICALLY BENEFICIAL OUTCOME; OR

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

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

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

(V) BE ADMISSIBLE IN ANY COURT PROCEEDING.

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

ARTICLE 6

EMERGENCY MEDICAL SERVICES AND SURPRISE BILLS

SECTION 601. DISPUTE RESOLUTION PROCESS ESTABLISHED.

602. APPLICABILITY.

603. DEFINITIONS.

604. CRITERIA FOR DETERMINING A REASONABLE FEE.

605. DISPUTE RESOLUTION FOR EMERGENCY SERVICES.

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

607. DISPUTE RESOLUTION FOR SURPRISE BILLS.

608. PAYMENT FOR INDEPENDENT DISPUTE RESOLUTION ENTITY.

S 601. DISPUTE RESOLUTION PROCESS ESTABLISHED. THE SUPERINTENDENT SHALL ESTABLISH A DISPUTE RESOLUTION PROCESS BY WHICH A DISPUTE FOR A BILL FOR EMERGENCY SERVICES OR A SURPRISE BILL MAY BE RESOLVED. THE SUPERINTENDENT SHALL HAVE THE POWER TO GRANT AND REVOKE CERTIFICATIONS OF INDEPENDENT DISPUTE RESOLUTION ENTITIES TO CONDUCT THE DISPUTE RESOLUTION PROCESS. THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS ESTABLISHING STANDARDS FOR THE DISPUTE RESOLUTION PROCESS, INCLUDING A PROCESS FOR CERTIFYING AND SELECTING INDEPENDENT DISPUTE RESOLUTION ENTITIES.

S 602. APPLICABILITY. THIS ARTICLE SHALL NOT APPLY TO HEALTH CARE SERVICES, INCLUDING EMERGENCY SERVICES, WHERE PHYSICIAN FEES ARE SUBJECT TO SCHEDULES OR OTHER MONETARY LIMITATIONS UNDER ANY OTHER LAW, INCLUD-

1 ING THE WORKERS' COMPENSATION LAW AND ARTICLE FIFTY-ONE OF THE INSURANCE
2 LAW, AND SHALL NOT PREEMPT ANY SUCH LAW.

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

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

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

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

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

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

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

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

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

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

50 (2) A PATIENT WHO IS NOT AN INSURED FOR SERVICES RENDERED BY A PHYSI-
51 CIAN AT A HOSPITAL OR AMBULATORY SURGICAL CENTER, WHERE THE PATIENT HAS
52 NOT TIMELY RECEIVED ALL OF THE DISCLOSURES REQUIRED PURSUANT TO SECTION
53 TWENTY-FOUR OF THE PUBLIC HEALTH LAW.

54 (I) "USUAL AND CUSTOMARY COST" MEANS THE EIGHTIETH PERCENTILE OF ALL
55 CHARGES FOR THE PARTICULAR HEALTH CARE SERVICE PERFORMED BY A PROVIDER
56 IN THE SAME OR SIMILAR SPECIALTY AND PROVIDED IN THE SAME GEOGRAPHICAL

1 AREA AS REPORTED IN A BENCHMARKING DATABASE MAINTAINED BY A NONPROFIT
2 ORGANIZATION SPECIFIED BY THE SUPERINTENDENT. THE NONPROFIT ORGANIZATION
3 SHALL NOT BE AFFILIATED WITH AN INSURER, A CORPORATION SUBJECT TO ARTI-
4 CLE FORTY-THREE OF THE INSURANCE LAW, A MUNICIPAL COOPERATIVE HEALTH
5 BENEFIT PLAN CERTIFIED PURSUANT TO ARTICLE FORTY-SEVEN OF THE INSURANCE
6 LAW, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO ARTICLE
7 FORTY-FOUR OF THE PUBLIC HEALTH LAW.

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

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

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

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

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

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

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

27 (E) INDIVIDUAL PATIENT CHARACTERISTICS; AND

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

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

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

44 (3) IN DETERMINING A REASONABLE FEE FOR THE SERVICES RENDERED, AN
45 INDEPENDENT DISPUTE RESOLUTION ENTITY SHALL SELECT EITHER THE HEALTH
46 CARE PLAN'S PAYMENT OR THE NON-PARTICIPATING PHYSICIAN'S FEE. THE 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) EMERGENCY SERVICES FOR A PATIENT THAT IS NOT AN INSURED. (1) A
51 PATIENT THAT IS NOT AN INSURED OR THE PATIENT'S PHYSICIAN MAY SUBMIT A
52 DISPUTE REGARDING A FEE FOR EMERGENCY SERVICES FOR REVIEW TO AN INDE-
53 PENDENT DISPUTE RESOLUTION ENTITY UPON APPROVAL OF THE SUPERINTENDENT.

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

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

4 (C) THE DETERMINATION OF AN INDEPENDENT DISPUTE RESOLUTION ENTITY
5 SHALL BE BINDING ON THE HEALTH CARE PLAN, PHYSICIAN AND PATIENT, AND
6 SHALL BE ADMISSIBLE IN ANY COURT PROCEEDING BETWEEN THE HEALTH CARE
7 PLAN, PHYSICIAN OR PATIENT, OR IN ANY ADMINISTRATIVE PROCEEDING BETWEEN
8 THIS STATE AND THE PHYSICIAN.

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

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

21 (2) THE NON-PARTICIPATING PHYSICIAN MAY BILL THE HEALTH CARE PLAN FOR
22 THE HEALTH CARE SERVICES RENDERED, AND THE HEALTH CARE PLAN SHALL PAY
23 THE NON-PARTICIPATING PHYSICIAN THE BILLED AMOUNT OR ATTEMPT TO NEGOTI-
24 ATE REIMBURSEMENT WITH THE NON-PARTICIPATING PHYSICIAN.

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

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

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

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

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

54 (3) A PATIENT OR INSURED WHO DOES NOT ASSIGN BENEFITS IN ACCORDANCE
55 WITH SUBSECTION (A) OF THIS SECTION SHALL NOT BE REQUIRED TO PAY THE

PHYSICIAN'S FEE TO BE ELIGIBLE TO SUBMIT THE DISPUTE FOR REVIEW TO THE INDEPENDENT DISPUTE ENTITY.

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

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

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

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

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

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

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

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

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

PART V

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

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

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

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

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

11 (A) DETERMINES INSURABILITY OR PREPARES OR ISSUES TITLE INSURANCE
12 COMMITMENTS OR POLICIES, OR BOTH, BASED UPON THE PERFORMANCE OR REVIEW
13 OF A SEARCH; AND

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

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

16 (II) HANDLES ESCROWS;

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

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

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

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

29 (1) A LICENSED TITLE INSURANCE AGENT; OR

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

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

39 (1) A LICENSED TITLE INSURANCE AGENT; OR

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

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

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

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

55 (a) The superintendent may issue a temporary insurance agent's
56 LICENSE, TITLE INSURANCE AGENT'S LICENSE or insurance broker's license,

1 or both AN INSURANCE AGENT'S AND INSURANCE BROKER'S LICENSE, without
2 requiring the applicant to pass a written examination or to satisfy the
3 requirements of subsection (c) of section two thousand one hundred four
4 of this article except as to age, in the case of a license issued pursu-
5 ant to paragraph two [hereof] OF THIS SUBSECTION, in the following
6 cases:

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

12 (A) to the executor or administrator of the estate of such deceased
13 agent or broker;

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

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

20 (D) to an officer or director of a corporation upon the death of the
21 only officer or director who was qualified as a sub-licensee or to the
22 executor or administrator of the estate of such deceased officer or
23 director;

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

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

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

44 (c) Such license or licenses shall authorize the person or persons
45 named therein to renew the business of the deceased, absent or disabled
46 INSURANCE agent, TITLE INSURANCE AGENT, or INSURANCE broker, or both AN
47 INSURANCE AGENT AND INSURANCE BROKER, as the case may be, or of the firm
48 or, in the case of a license issued pursuant to paragraph one or three
49 of subsection (a) [hereof] OF THIS SECTION, the association whose busi-
50 ness is being continued thereunder, each such agent[,] OR broker[,] firm
51 or association] being referred to in this section as "original licen-
52 see", expiring during the period in which such temporary license or
53 licenses are in force, to collect premiums due and payable to the
54 original licensee or, in the case of a license issued pursuant to para-
55 graph one of subsection (a) [hereof] OF THIS SECTION, to his OR HER
56 estate, and to perform such other acts as an insurance agent, A TITLE

1 INSURANCE AGENT or [as] an insurance broker, or both AN INSURANCE AGENT
2 OR INSURANCE BROKER, as the case may be, as are incidental to the
3 continuance of the insurance business of such original licensee.

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

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

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

12 (B) SUBMITS TO THE NEXT AVAILABLE TITLE INSURANCE AGENT EXAMINATION;
13 AND

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

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

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

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

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

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

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

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

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

41 (B) demonstrated incompetence;

42 (C) demonstrated untrustworthiness; or

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

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

48 (6) intentionally misrepresented the terms of an actual or proposed
49 insurance contract, life settlement contract or application for insur-
50 ance;

51 (7) has been convicted of a felony;

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

54 (9) had an insurance producer license, INSURANCE CONSULTANT LICENSE,
55 ADJUSTER LICENSE, A TITLE INSURANCE CLOSER LICENSE, a life settlement

broker license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

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

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

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

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

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

(15) while acting as a public adjuster, the licensee has failed to act on behalf and in the best interests of the insured when negotiating for or effecting the settlement of an insurance claim for such insured or otherwise acting as a public adjuster, or has failed to make the disclosures required by paragraph two of subsection (s) of section two thousand one hundred eight of this article;

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

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

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

S 9. Subsections (a), (b), (c), and (d) of sections 2112 of the insurance law, subsection (a) as amended by chapter 540 of the laws of 1996, subsections (b) and (d) as amended by chapter 687 of the laws of 2003 and subsection (c) as amended by chapter 647 of the laws of 1992, are amended to read as follows:

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

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

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

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

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

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

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

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

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

48 (E) FOR PURPOSES OF THIS CHAPTER, A TITLE INSURANCE CLOSER SHALL BE
49 DEEMED TO BE THE APPOINTED REPRESENTATIVE OF THE TITLE INSURANCE CORPO-
50 RATION OR TITLE INSURANCE AGENT THAT HAS ENGAGED SUCH TITLE INSURANCE
51 CLOSER FOR THE CLOSING.

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

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

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

15 (2) THAT THE PARTY BEING REFERRED IS NOT REQUIRED TO USE THE SERVICES
16 OF THE TITLE INSURANCE AGENT OR THE TITLE INSURANCE CORPORATION TO WHICH
17 THE PARTY IS BEING REFERRED;

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

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

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

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

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

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

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

47 Fiduciary capacity of insurance agents, TITLE INSURANCE AGENTS, TITLE
48 INSURANCE CLOSERS, insurance brokers and reinsurance intermediaries. (a)
49 Every insurance agent, TITLE INSURANCE AGENT, TITLE INSURANCE CLOSER,
50 and [every] insurance broker acting as such in this state shall be
51 responsible in a fiduciary capacity for all funds received or collected
52 as insurance agent or insurance broker, and shall not, without the
53 express consent of his, HER or its principal, mingle any such funds with
54 his, HER or its own funds or with funds held by him, HER or it in any
55 other capacity.

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

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

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

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

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

(a) Notwithstanding the provisions of sections two thousand three hundred twenty-four and four thousand two hundred twenty-four of this chapter, no [insurance agent, insurance broker, insurance consultant, excess line broker, reinsurance intermediary or insurance adjuster] LICENSEE SUBJECT TO THIS ARTICLE shall receive any commissions or fees or shares thereof in connection with insurance coverages placed for or insurance services rendered to the state, its agencies and departments, public benefit corporations, municipalities and other governmental subdivisions in this state, unless such [insurance agent, insurance broker, insurance consultant, excess line broker, reinsurance intermediary or insurance adjuster] LICENSEE actually placed insurance coverages on behalf of or rendered insurance services to the state, its agencies and departments, public benefit corporations, municipalities and other governmental subdivisions in this state.

(b) The superintendent shall, by regulation, require [insurance agents, insurance brokers, insurance consultants, excess line brokers, reinsurance intermediaries and insurance adjusters] LICENSEES SUBJECT TO THIS ARTICLE to file disclosure statements with the department of financial services and the most senior official of the governmental unit involved, with respect to any insurance coverages placed for or insurance services rendered to the state, its agencies and departments, public benefit corporations, municipalities and other governmental subdivisions in this state, EXCEPT THAT NEITHER A TITLE INSURANCE CORPORATION NOR A TITLE INSURANCE AGENT SHALL BE REQUIRED TO FILE A DISCLOSURE STATEMENT IF AN INDUSTRIAL DEVELOPMENT AGENCY, STATE OF NEW YORK MORTGAGE AGENCY OR ITS SUCCESSOR, OR ANY SIMILAR TYPE OF ENTITY, IS THE NAMED INSURED UNDER THE POLICY AND IS A MORTGAGEE WITH RESPECT TO THE PROPERTY INSURED.

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

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

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

(2) sickness, accident and health insurance;

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

2 (4) life settlements[.]; AND

3 (5) TITLE INSURANCE.

4 (b) This section shall not apply to:

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

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

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

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

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

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

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

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

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

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

49 S 2140. TITLE INSURANCE AGENTS; LICENSING. (A) THE SUPERINTENDENT MAY
50 ISSUE A LICENSE TO ANY PERSON, FIRM, ASSOCIATION OR CORPORATION THAT HAS
51 COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER, AUTHORIZING THE LICENSEE
52 TO ACT AS A TITLE INSURANCE AGENT OF ANY AUTHORIZED TITLE INSURANCE
53 CORPORATION, PROVIDED THAT SUCH TITLE INSURANCE AGENT DEMONSTRATES
54 FINANCIAL ACCOUNTABILITY AS EVIDENCED BY A BOND OR OTHER METHOD OF
55 FINANCIAL ACCOUNTABILITY IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND
56 DOLLARS.

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

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

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

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

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

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

49 (1) APPLICANT WHO FILES AN APPLICATION UNDER THIS SECTION WITHIN ONE
50 YEAR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION AND WHO DEMONSTRATES TO
51 THE SATISFACTION OF THE SUPERINTENDENT THAT SUCH APPLICANT OR ITS
52 PROSPECTIVE SUB-LICENSEE HAS, WITHOUT INTERRUPTION, REGULARLY AND
53 CONTINUOUSLY PERFORMED THE FUNCTIONS OF A TITLE INSURANCE AGENT FOR A
54 PERIOD OF AT LEAST FIVE YEARS IMMEDIATELY PRECEDING THE FILING OF SUCH
55 APPLICATION AND IS COMPETENT AND TRUSTWORTHY TO ACT AS A TITLE INSURANCE
56 AGENT;

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

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

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

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

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

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

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

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

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

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

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

(A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE; OR

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

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

(A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT MAY PRESCRIBE; AND

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

(7) IF AN APPLICATION FOR A RENEWAL LICENSE SHALL HAVE BEEN FILED WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH LICENSE, THEN THE LICENSE SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL LICENSE APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL LICENSE AND SHALL HAVE GIVEN NOTICE OF SUCH REFUSAL TO THE APPLICANT AND TO EACH PROPOSED SUB-LICENSEE. BEFORE REFUSING TO RENEW ANY SUCH LICENSE, EXCEPT ON THE GROUND OF FAILURE TO PASS A WRITTEN EXAMINATION, THE SUPERINTENDENT SHALL NOTIFY THE APPLICANT OF THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE THE APPLICANT A HEARING.

(8) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICENSEE OR SUB-LICENSEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION

1 FOR SUCH RENEWAL LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF
2 SUCH INDIVIDUAL, IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY
3 SOME PERSON OR PERSONS WHO IN HIS OR HER JUDGMENT HAVE KNOWLEDGE OF THE
4 FACTS AND WHO MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE
5 INABILITY OF SUCH TITLE INSURANCE AGENT TO MAKE PERSONAL APPLICATION.

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

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

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

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

26 (13) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
27 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
28 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
29 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
30 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
31 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

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

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

52 S 2141. TITLE INSURANCE CLOSERS; LICENSING. (A) THE SUPERINTENDENT MAY
53 ISSUE A LICENSE TO ANY INDIVIDUAL WHO HAS COMPLIED WITH THE REQUIREMENTS
54 OF THIS CHAPTER, AUTHORIZING THE LICENSEE TO ACT AS A TITLE INSURANCE
55 CLOSER FOR ANY AUTHORIZED TITLE INSURANCE CORPORATION OR TITLE INSURANCE
56 AGENT.

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

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

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

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

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

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

46 (2) APPLICANT WHO HAS PASSED THE WRITTEN EXAMINATION GIVEN BY THE
47 SUPERINTENDENT FOR A TITLE INSURANCE CLOSER'S LICENSE AND WAS LICENSED
48 AS SUCH, OR OF AN APPLICANT WHO WAS LICENSED AS A TITLE INSURANCE CLOSER
49 BUT DID NOT PASS SUCH AN EXAMINATION, PROVIDED THE APPLICANT APPLIES
50 WITHIN TWO YEARS FOLLOWING THE DATE OF TERMINATION OF THE APPLICANT'S
51 LICENSE; OR

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

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

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

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

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

6 (H) (1) EVERY LICENSE ISSUED TO AN INDIVIDUAL BORN IN AN ODD-NUMBERED
7 YEAR SHALL EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH ODD-NUMBERED
8 YEAR. LICENSES ISSUED TO INDIVIDUALS BORN IN EVEN-NUMBERED YEARS SHALL
9 EXPIRE ON THE INDIVIDUAL'S BIRTHDAY IN EACH EVEN-NUMBERED YEAR. EVERY
10 SUCH LICENSE MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS
11 UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SUBSECTION.

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

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

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

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

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

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

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

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

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

46 (7) AN INDIVIDUAL LICENSEE WHO IS UNABLE TO COMPLY WITH LICENSE
47 RENEWAL PROCEDURES DUE TO OTHER EXTENUATING CIRCUMSTANCES, SUCH AS A
48 LONG-TERM MEDICAL DISABILITY, MAY REQUEST A WAIVER OF SUCH PROCEDURES,
49 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE. THE LICENSEE MAY
50 ALSO REQUEST A WAIVER OF ANY EXAMINATION REQUIREMENT OR ANY OTHER FINE
51 OR SANCTION IMPOSED FOR FAILURE TO COMPLY WITH RENEWAL PROCEDURES.

52 (8) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
53 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
54 LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF
55 TEN DOLLARS FOR LATE FILING.

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

(10) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENTLY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

S 19. The insurance law is amended by adding a new section 2142 to read as follows:

S 2142. TITLE INSURANCE SOLICITORS; LICENSING. (A) THE SUPERINTENDENT MAY ISSUE A LICENSE TO ANY INDIVIDUAL THAT HAS COMPLIED WITH THE REQUIREMENTS OF THIS CHAPTER, AUTHORIZING THE LICENSEE TO ACT AS A TITLE INSURANCE SOLICITOR FOR ANY AUTHORIZED TITLE INSURANCE CORPORATION OR TITLE INSURANCE AGENT.

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

(C) BEFORE ANY ORIGINAL TITLE INSURANCE SOLICITOR'S LICENSE IS ISSUED, THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT AN APPLICATION BY THE PROSPECTIVE LICENSEE IN SUCH FORM OR FORMS AND SUPPLEMENTS THERETO, ALONG WITH A FEE IN THE AMOUNT OF FORTY DOLLARS FOR EACH YEAR OR FRACTION OF A YEAR IN WHICH THE LICENSE SHALL BE VALID, AND CONTAINING INFORMATION THE SUPERINTENDENT PRESCRIBES.

(D) THE SUPERINTENDENT SHALL, IN ORDER TO DETERMINE THE COMPETENCY OF EVERY APPLICANT FOR THE TITLE INSURANCE SOLICITOR LICENSE, REQUIRE SUCH INDIVIDUAL TO SUBMIT TO A PERSONAL WRITTEN EXAMINATION AND TO PASS THE SAME TO THE SATISFACTION OF THE SUPERINTENDENT. THE EXAMINATION SHALL BE HELD AT SUCH TIMES AND PLACES AS THE SUPERINTENDENT SHALL FROM TIME TO TIME DETERMINE. EVERY INDIVIDUAL APPLYING TO TAKE ANY WRITTEN EXAMINATION SHALL, AT THE TIME OF APPLYING THEREFOR, PAY TO THE SUPERINTENDENT OR, AT THE DISCRETION OF THE SUPERINTENDENT, DIRECTLY TO ANY ORGANIZATION THAT IS UNDER CONTRACT TO PROVIDE EXAMINATION SERVICES, AN EXAMINATION FEE OF AN AMOUNT THAT IS THE ACTUAL DOCUMENTED ADMINISTRATIVE COST OF CONDUCTING SAID QUALIFYING EXAMINATION AS CERTIFIED BY THE SUPERINTENDENT FROM TIME TO TIME. AN EXAMINATION FEE REPRESENTS AN ADMINISTRATIVE EXPENSE AND SHALL NOT BE REFUNDABLE. THE SUPERINTENDENT MAY ACCEPT, IN LIEU OF ANY SUCH EXAMINATION, THE RESULT OF ANY PREVIOUS WRITTEN EXAMINATION, GIVEN BY THE SUPERINTENDENT, WHICH IN THE SUPERINTENDENT'S JUDGMENT, IS EQUIVALENT TO THE EXAMINATION FOR WHICH IT IS SUBSTITUTED.

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

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

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

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

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

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

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

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

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

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

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

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

(A) REVOKED OR SUSPENDED BY THE SUPERINTENDENT PURSUANT TO THIS ARTICLE; OR

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

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

(A) FILED A COMPLETED RENEWAL APPLICATION IN SUCH FORM OR FORMS, AND SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION AS THE SUPERINTENDENT MAY PRESCRIBE; AND

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

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

(6) THE SUPERINTENDENT MAY, IN ISSUING A RENEWAL LICENSE, DISPENSE WITH THE REQUIREMENTS OF A VERIFIED APPLICATION BY ANY INDIVIDUAL LICEN-

1 SEE WHO, BY REASON OF BEING ENGAGED IN ANY MILITARY SERVICE FOR THE
2 UNITED STATES, IS UNABLE TO MAKE PERSONAL APPLICATION FOR SUCH RENEWAL
3 LICENSE, UPON THE FILING OF AN APPLICATION ON BEHALF OF SUCH INDIVIDUAL,
4 IN SUCH FORM AS THE SUPERINTENDENT SHALL PRESCRIBE, BY SOME PERSON OR
5 PERSONS WHO IN HIS OR HER JUDGMENT HAVE KNOWLEDGE OF THE FACTS AND WHO
6 MAKE AFFIDAVIT SHOWING SUCH MILITARY SERVICE AND THE INABILITY OF SUCH
7 TITLE INSURANCE SOLICITOR TO MAKE PERSONAL APPLICATION.

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

14 (8) AN APPLICATION FOR THE RENEWAL OF A LICENSE SHALL BE FILED WITH
15 THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE
16 LICENSE EXPIRES OR THE APPLICANT SHALL BE SUBJECT TO A FURTHER FEE OF
17 TEN DOLLARS FOR LATE FILING.

18 (9) NO LICENSE FEE SHALL BE REQUIRED OF ANY PERSON WHO SERVED AS A
19 MEMBER OF THE ARMED FORCES OF THE UNITED STATES AT ANY TIME, AND WHO
20 SHALL HAVE BEEN DISCHARGED THEREFROM UNDER CONDITIONS OTHER THAN
21 DISHONORABLE, IN A CURRENT LICENSING PERIOD FOR THE DURATION OF SUCH
22 PERIOD.

23 (10) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT LICENSE FOR A CURRENT-
24 LY IN-FORCE LICENSE THAT HAS BEEN LOST OR DESTROYED. BEFORE SUCH
25 REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE
26 OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT
27 LICENSE, AFFIRMING UNDER PENALTY OF PERJURY THAT THE ORIGINAL LICENSE
28 HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

29 S 20. Section 2314 of the insurance law is amended to read as follows:

30 S 2314. Charging of rates. No authorized insurer shall, and no
31 licensed insurance agent, NO TITLE INSURANCE AGENT, no employee or other
32 representative of an authorized insurer, and no licensed insurance
33 broker shall knowingly, charge or demand a rate or receive a premium
34 [which] THAT departs from the rates, rating plans, classifications,
35 schedules, rules and standards in effect on behalf of the insurer, or
36 shall issue or make any policy or contract involving a violation there-
37 of.

38 S 21. Section 6409 of the insurance law, subsection (c) as added by
39 chapter 955 of the laws of 1984, is amended to read as follows:

40 S 6409. Filing of policy forms; rates; classification of risks;
41 commissions and rebates prohibited. (a) No title insurance policy OR
42 GUARANTEE OF THE CORRECTNESS OF SEARCHES FORM shall be issued or deliv-
43 ered in this state, unless [and until a copy of the form thereof shall
44 have] IT HAS been filed with the superintendent [for his information] IN
45 ACCORDANCE WITH ARTICLE TWENTY-THREE OF THIS CHAPTER.

46 (b) [Every title insurance corporation shall file with the superinten-
47 dent its rate manual, if any, its basic schedule of rates and classi-
48 fication of risks, its rating plan and rules in connection with the
49 writing or issuance of policies of title insurance and shall thereafter
50 likewise file any changes therein. After any such filing no such corpo-
51 ration shall, in connection with the writing or issuance of any such
52 policy, deviate from the rates, classifications of risks and rules last
53 filed by it, either by making any reduction in rates without having
54 filed the same as herein provided, or by way of any discriminations in
55 favor of or against any insured. The superintendent shall have the
56 powers specified in article twenty-three of this chapter applicable to

1 title insurers.] TITLE INSURANCE RATES AND RATE FILINGS, INCLUDING RATES
2 FOR GUARANTEES OF THE CORRECTNESS OF SEARCHES, SHALL BE SUBJECT TO ARTI-
3 CLE TWENTY-THREE OF THIS CHAPTER.

4 (c) Notwithstanding any other provision of this article, every title
5 insurance [company] CORPORATION shall [be required to] offer, at or
6 prior to title closing, an optional policy form [which will insure] THAT
7 INSURES the title of owner-occupied real property used predominantly for
8 residential purposes [which] THAT consists of not more than four dwell-
9 ing units for an amount equal to the market value of the property at the
10 time a loss is discovered. Such policy form shall be filed with, AND
11 APPROVED BY, the superintendent [pursuant to subsection (a) of this
12 section] IN ACCORDANCE WITH ARTICLE TWENTY-THREE OF THIS CHAPTER. Rates
13 for such coverage shall be filed AND APPROVED pursuant to [subsection
14 (b) of this section] ARTICLE TWENTY-THREE OF THIS CHAPTER.

15 (d) No title insurance corporation, TITLE INSURANCE AGENT, or any
16 other person acting for or on behalf of [it] THE TITLE INSURANCE CORPO-
17 RATION OR TITLE INSURANCE AGENT, shall OFFER OR make, DIRECTLY OR INDI-
18 RECTLY, any rebate of any portion of the fee, premium or charge made, or
19 pay or give to any applicant for insurance, or to any person, firm, or
20 corporation acting as agent, representative, attorney, or employee of
21 the owner, lessee, mortgagee or the prospective owner, lessee, or mort-
22 gagee or the prospective owner, lessee, or mortgagee of the real proper-
23 ty or any interest therein, either directly or indirectly, any commis-
24 sion, any part of its fees or charges, or any other consideration or
25 valuable thing, as an inducement for, or as compensation for, any title
26 insurance business, NOR SHALL ANY APPLICANT FOR INSURANCE, OR ANY
27 PERSON, FIRM, OR CORPORATION ACTING AS AGENT, REPRESENTATIVE, ATTORNEY,
28 OR EMPLOYEE OF THE OWNER, LESSEE, MORTGAGEE OR THE PROSPECTIVE OWNER,
29 LESSEE, OR MORTGAGEE OF THE REAL PROPERTY OR ANYONE HAVING ANY INTEREST
30 IN REAL PROPERTY KNOWINGLY RECEIVE, DIRECTLY OR INDIRECTLY, ANY SUCH
31 REBATE OR OTHER CONSIDERATION OR VALUABLE THING. Any person or entity
32 who [accepts or receives such a commission or rebate] VIOLATES THIS
33 SECTION shall be subject to a penalty equal to the greater of [one] FIVE
34 thousand dollars or five times the amount [thereof] OF ANY COMPENSATION
35 OR REBATE RECEIVED OR PAID.

36 (e) Premium rates for coverage shall fully reflect the foregoing
37 prohibitions of subsection (d) [hereof] OF THIS SECTION.

38 S 22. This act shall take effect on the one hundred eightieth day
39 after it shall have become a law, provided, however, that effective
40 immediately:

41 (1) the addition, amendment, or repeal of any rule or regulation
42 necessary for the implementation of this act on its effective date is
43 authorized and directed to be made and completed on or before such
44 effective date;

45 (2) the superintendent of financial services shall promulgate applica-
46 tion forms for persons, firms, associations, and corporations seeking to
47 obtain a license as a title insurance agent, or individuals seeking to
48 obtain a license as a title insurance closer or title insurance solici-
49 tor; and

50 (3) each person, firm, association, or corporation who has filed an
51 application for a license as a title insurance agent, or every individ-
52 ual who has filed an application for a license as a title insurance
53 closer or title insurance solicitor on or before January 1, 2015 or
54 within 90 days after the superintendent of financial services has
55 promulgated application forms pursuant to this act, whichever date is
56 later, may act as such licensee without a license issued pursuant to

1 section 2140, 2141, or 2142 of the insurance law, as added by sections
2 seventeen, eighteen, and nineteen of this act, until the superintendent
3 of financial services has made a final determination on the application
4 for such license filed by such person, firm, association, or corpo-
5 ration.

6 PART W

7 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012,
8 amending the public authorities law relating to authorizing the dormito-
9 ry authority to enter into certain design and construction management
10 agreements, as amended by section 1 of part I of chapter 58 of the laws
11 of 2013, is amended to read as follows:

12 S 2. This act shall take effect immediately and shall expire and be
13 deemed repealed April 1, [2014] 2015.

14 S 2. Within 90 days of the effective date of this act, the dormitory
15 authority of the state of New York shall provide a report providing
16 information regarding any project undertaken pursuant to a design and
17 construction management agreement, as authorized by part BB of chapter
18 58 of the laws of 2012, between the dormitory authority of the state of
19 New York and the department of environmental conservation and/or the
20 office of parks, recreation and historic preservation to the governor,
21 the temporary president of the senate and speaker of the assembly. Such
22 report shall include but not be limited to a description of each such
23 project, the project identification number of each such project, if
24 applicable, the projected date of completion, the status of the project,
25 the total cost or projected cost of each such project, and the location,
26 including the names of any county, town, village or city, where each
27 such project is located or proposed. In addition, such a report shall be
28 provided to the aforementioned parties by the first day of March of each
29 year that the authority to enter into such agreements pursuant to part
30 BB of chapter 58 of the laws of 2012 is in effect.

31 S 3. This act shall take effect immediately and shall be deemed to
32 have been in effect on and after April 1, 2014.

33 PART X

34 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
35 public authorities law relating to the powers and duties of the dormito-
36 ry authority of the state of New York relative to the establishment of
37 subsidiaries for certain purposes, as amended by section 28 of part D of
38 chapter 56 of the laws of 2012, is amended to read as follows:

39 S 2. This act shall take effect immediately and shall expire and be
40 deemed repealed on July 1, [2014] 2016; provided however, that the expi-
41 ration of this act shall not impair or otherwise affect any of the
42 powers, duties, responsibilities, functions, rights or liabilities of
43 any subsidiary duly created pursuant to subdivision twenty-five of
44 section 1678 of the public authorities law prior to such expiration.

45 S 2. This act shall take effect immediately.

46 PART Y

47 Section 1. Section 2976-a of the public authorities law is REPEALED.

48 S 2. Section 2868 of the public health law, as amended by section 43-a
49 of part B of chapter 58 of the laws of 2008, is amended to read as
50 follows:

1 S 2868. Fees and charges. The commissioner may by regulation establish
2 and charge to any nursing home company, for the period of occupancy date
3 to mortgage discharge, a fee for inspection, regulation, supervision and
4 audit not to annually exceed two-tenths of one percent of the mortgage
5 loan to recover the departmental costs in performing these functions IN
6 RELATION TO ANY NURSING HOME PROJECT FINANCED OR REFINANCED BY A LOAN
7 MADE UNDER THIS ARTICLE PRIOR TO APRIL FIRST, TWO THOUSAND FOURTEEN.
8 NOTWITHSTANDING THE FOREGOING, NO SUCH FEE SHALL BE CHARGED OR PAYABLE
9 PURSUANT TO THIS SECTION WITH RESPECT TO A NURSING HOME PROJECT FINANCED
10 OR REFINANCED WITH BONDS ISSUED ON OR AFTER APRIL FIRST, TWO THOUSAND
11 FOURTEEN.

12 S 3. Section 2881 of the public health law, as amended by section 43-b
13 of part B of chapter 58 of the laws of 2008, is amended to read as
14 follows:

15 S 2881. Fees and charges. The commissioner may, by regulation, estab-
16 lish and charge to eligible borrowers, for the period from occupancy
17 date to mortgage discharge, a fee for inspection, regulation, super-
18 vision and audit not to annually exceed two-tenths of one percent of the
19 mortgage loan to recover the departmental costs in performing these
20 functions IN RELATION TO ANY HOSPITAL PROJECT FINANCED OR REFINANCED BY
21 A LOAN MADE UNDER THIS ARTICLE PRIOR TO APRIL FIRST, TWO THOUSAND FOUR-
22 TEEN. NOTWITHSTANDING THE FOREGOING, NO SUCH FEE SHALL BE CHARGED OR
23 PAYABLE PURSUANT TO THIS SECTION WITH RESPECT TO A HOSPITAL PROJECT
24 FINANCED OR REFINANCED WITH BONDS ISSUED ON OR AFTER APRIL FIRST, TWO
25 THOUSAND FOURTEEN.

26 S 4. This act shall take effect immediately.

27 PART Z

28 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
29 of the laws of 1968 constituting the New York state urban development
30 corporation act, as amended by chapter 81 of the laws of 2013, is
31 amended to read as follows:

32 3. The provisions of this section shall expire, notwithstanding any
33 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
34 the laws of 1996 or of any other law, on July 1, [2014] 2015.

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

37 PART AA

38 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
39 New York state urban development corporation act, relating to the powers
40 of the New York state urban development corporation to make loans, as
41 amended by section 1 of part H 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 expire on July 1, [2014] 2015, at which
45 time the provisions of subdivision 26 of section 5 of the New York state
46 urban development corporation act shall be deemed repealed; provided,
47 however, that neither the expiration nor the repeal of such subdivision
48 as provided for herein shall be deemed to affect or impair in any manner
49 any loan made pursuant to the authority of such subdivision prior to
50 such expiration and repeal.

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

1 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
2 sion, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included herein.

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