STATE OF NEW YORK

S. 7508 A. 9508

SENATE - ASSEMBLY

January 18, 2018

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

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

AN ACT to amend the vehicle and traffic law and the transportation law, in relation to enhancing the ability of the state to enforce state and federal law relating to motor carriers, commercial drivers and bus operators and to increase penalties for violations of state law relating thereto (Part A); to amend the highway law, in relation to roadside rest areas (Part B); to amend the transportation law, in relating to enhancing the ability of the state to enforce state and federal law relating to the safety of rail fixed guideway public transportation systems under the oversight of the public transportation safety board (Part C); to amend the public authorities law, in relation to agreements for fiber optics (Part D); to amend the transportation law, in relation to authorizing the department of transportation to charge one hundred twenty dollars for a semi-annual inspection of certain for-profit fleets (Part E); to amend the highway law and the transportation corporations law, in relation to occupancy of the state right of way for a fee; and to amend the general municipal law, in relation to small wireless facilities development (Part F); to amend the vehicle and traffic law, in relation to seat belt requirements, proper safety restraints for children under the age of 8, prohibiting the use of mobile telephones and portable electronic devices by persons under the age of 18, and permitting junior license holders to operate a vehicle in New York City; and to amend the vehicle and traffic law and the public officers law, in relation to authorizing political subdivisions and commuter railroads to establish demonstration programs and to implement railroad grade crossing monitoring systems by means of photo devices (Part G); to amend part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, in relation to demonstrations and tests; in relation to the submission or reports; and in relation to extending the effectiveness thereof; relates to demonstrations and testing of motor vehicles

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

LBD12673-01-8

equipped with autonomous vehicle technology; and to repeal section 1226 of the vehicle and traffic law, relating to control of steering mechanisms (Part H); to amend the state finance law, in relation to removing the authorization for the OSC to prescribe a reporting requirement to the city of New York (Part I); to amend the vehicle and traffic law, in relation to establishing a pre-licensing course internet program; and providing for the repeal of such provisions upon expiration thereof (Part J); to amend the vehicle and traffic law, in relation to the disposition of certain proceeds collected by the commissioner of motor vehicles; to amend the transportation law and the tax law, in relation to the disposition of certain fees and assessments; to amend the state finance law, in relation to the special obligation reserve and payment account of the dedicated highway and bridge trust fund; to amend the public authorities law, in relation to the metropolitan transportation authority finance fund; and to amend the state finance law, in relation to the metropolitan transportation authority financial assistance fund; to repeal subdivision 5 of section 317 of the vehicle and traffic law relating to certain assessments charged and collected by the commissioner of motor vehicles; to repeal subdivision 6 of section 423-a of the vehicle and traffic law relating to funds collected by the department of motor vehicles from the sale of certain assets; and to repeal subdivision 4 of section 94 of the transportation law relating to certain fees collected by the commissioner of transportation (Part K); to amend the public authorities law, in relation to creation of transportation improvement subdistricts; and to amend the real property tax law, in relation to authorizing a tax levy to fund certain operations of the Metropolitan Transportation Authority (Part L); to amend the public authorities law, in relation to the funding of the capital program of the metropolitan transportation authority (Part M); to amend the public authorities law, in relation to acceleration of procurement contracts made with foreign enterprises; in relation to acceleration of procurements made for smaller purchases; and in relation to the modification of service or funding agreements (Part N); 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 O); to amend the 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 P); to amend the executive law, the state finance law, the public authorities law, the public buildings law, and the penal law, in relation to the reauthorization of the minority and women-owned business enterprise program; to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure fund, in relation to the effectiveness of certain provisions thereof; and to amend the executive law, in relation to establishing the workforce diversity program; and providing for the repeal of certain provisions upon expiration thereof (Part Q); to amend the infrastructure investment act, in relation to authorized entities and design-build contracts (Part R); 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 S); to amend the business corporation

law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part T); to amend the general municipal law, in relation to brownfield opportunity areas (Part U); to repeal section 159-j of the executive law, relating to the local share requirement for providers under the federal community services block grant program (Part V); to amend the banking law, in relation to student loan servicers (Subpart A); to amend the financial services law, in relation to student debt collectors (Subpart B); and to amend the education law, in relation to student loan debtors (Subpart C)(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 part S of chapter 58 of the laws of 2016, amending the New York state urban development corporation act relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation, in relation to the effectiveness thereof (Part Y); to amend the real property tax law, in relation to the taxation of forest land; to amend the environmental conservation law, in relation to timber harvest notification and the creation of forest protection and management programs; and to amend the state finance law, in relation to the procurement of wood and wood fiber projects (Part Z); to amend the state finance law and the environmental conservation law, in relation to the environmental protection fund, the hazardous waste remedial fund and the mitigation and remediation of solid waste sites; and to repeal certain provisions of the state finance law and the environmental conservation law relating thereto (Part AA); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part BB); to amend the environmental conservation law, in relation to the Central Pine Barrens area and core preservation area (Part CC); authorizing utility and cable television assessments to provide funds to the department of health from cable television assessment revenues and to the departments of agriculture and markets, environmental conservation, office of parks, recreation and historic preservation, and state from utility assessment revenues (Part DD); authorizing the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY programs, as well as the department of environmental conservation's climate change program and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part EE); to amend the public authorities law, in relation to energy-related projects, programs and services of the power authority of the state of New York (Part FF); and to amend the public authorities law, in relation to the provision of renewable power and energy by the power authority of the state of New York (Part GG)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act enacts into law major components of legislation which are necessary to implement the state fiscal plan for the 2018-2019 state fiscal year. Each component is wholly contained within a Part identified as Parts A through GG. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section three of this act sets forth the general effective date of this act.

PART A

Section 1. Subparagraph (iii) of paragraph (b) of subdivision 2 of section 510 of the vehicle and traffic law, as amended by chapter 349 of 1993, is amended to read as follows:

(iii) such registrations shall be suspended when necessary to comply with subdivision nine of section one hundred forty or subdivision four of section one hundred forty-five of the transportation law **or with an out of service order issued by the United States department of transportation**. The commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where it has been determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. **Any suspension issued pursuant to this subdivision by reason of an out of service order issued by the United States department of transportation shall remain in effect until such time as the commissioner is notified by the United States department of transportation or the commissioner of transportation that the order resulting in the suspension is no longer in effect.**

§ 2. Subdivision 3 of section 145 of the transportation law, as added by chapter 635 of the laws of 1983, is amended to read as follows:

3. In addition to, or in lieu of, any sanctions set forth in this section, the commissioner may, after a hearing, impose a penalty not to exceed a maximum of five thousand dollars in any one proceeding upon any person if the commissioner finds that such person or officer, agent or employee thereof has failed to comply with the requirements of this chapter or any rule, regulation or order of the commissioner promulgated thereunder. **Provided, however, that the commissioner may, after a hearing, impose a penalty not to exceed ten thousand dollars in a second proceeding for another violation committed within eighteen months and a penalty not to exceed twenty-five thousand dollars in a third proceeding for additional violations committed within eighteen months.** If such penalty is not paid within four months, the amount thereof may be entered as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business or through which it operates. Thereafter, if said judgment has not been satisfied within ninety days, any certificate or permit held by any such person may be revoked upon notice but without a further hear-

ing. Provided, however, that if a person shall apply for a rehearing of the determination of the penalty pursuant to the provisions of section eighty-nine of this chapter, judgment shall not be entered until a determination has been made on the application for a rehearing. Further provided however, that if after a rehearing a penalty is imposed and such penalty is not paid within four months of the date of service of the rehearing decision, the amount of such penalty may be entered as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business or through which it operates. Thereafter, if said judgment has not been satisfied within ninety days, any certificate or permit held by any such person may be revoked upon notice but without a further hearing.

§ 3. This act shall take effect immediately.

PART B

Section 1. Subdivision 3 of section 20 of the highway law, as amended by chapter 736 of the laws of 1984, is amended to read as follows:

3. The commissioner may in his discretion develop such sites by providing any or all of the following: a water supply, sanitary facilities, parking space for automobiles or such other **commercial or** non-commercial facilities as are suitable for rest and relaxation stops by highway travelers. The commissioner may also permit the installation of vending machines dispensing such food, drink and other articles as he deems appropriate or desirable. Such sites shall be suitably marked and markings indicating their location may be erected on highways leading thereto.

§ 2. This act shall take effect immediately.

PART C

Section 1. Section 217 of the transportation law is amended by adding a new subdivision 9 to read as follows:

9. To enforce the requirements of section five thousand three hundred twenty-nine of title forty-nine of the United States Code, as amended from time to time, as it pertains to rail fixed guideway public transportation systems.

§ 2. This act shall take effect immediately.

PART D

Section 1. Subdivision 6 of section 2897 of the public authorities law is amended by adding a new paragraph f to read as follows:

f. Notwithstanding anything to the contrary contained in this section, disposals for use of the New York state thruway authority's fiber optic system, or any part thereof, may be made through agreements based on set fees rather than public auction or negotiation, provided that:

(i) the thruway authority has determined the disposal of such property complies with all applicable provisions of this chapter;

(ii) disposal of such property is in the best interest of the thruway authority; and

(iii) the set fees established for use of the fiber optic system, or part thereof, will be based on an appraisal of the fair market value of the property.

Disposals of the fiber optic system, or any part thereof, will not require the explanatory statements required by this section.

§ 2. This act shall take effect immediately.

PART E

Section 1. The transportation law is amended by adding a new section 144 to read as follows:

§ 144. Fees and charges. The commissioner or authorized officer or employee of the department shall charge and collect one hundred twenty dollars for the inspection or re-inspection of all motor vehicles transporting passengers subject to the department's inspection requirements pursuant to section one hundred forty of this article, except such motor vehicles operated under contract with a municipality to provide statewide mass transportation operating assistance eligible service or motor vehicles used primarily to transport passengers pursuant to subparagraphs (i), (iii) and (v) of paragraph a of subdivision two of section one hundred forty of this article. The department may deny inspection of any motor vehicle transporting passengers subject to the department's inspection requirements if such fee is not paid within ninety days of the date noted on the department invoice.

§ 2. This act shall take effect immediately.

PART F

Section 1. The first undesignated paragraph of subdivision 24-b of section 10 of the highway law, as amended by chapter 155 of laws of 1985, is amended to read as follows:

Have power, whenever such commissioner of transportation deems it is necessary as a result of work of construction, reconstruction or maintenance of state highways, to provide for the removal, relocation, replacement or reconstruction of privately, publicly or cooperatively owned water, storm and sewer lines and facilities, facilities for the transmission and/or distribution of communications, power, electricity, light, heat, gas, crude products, steam and other similar commodities, municipal utility facilities, or facilities of a corporation organized pursuant to the transportation corporations law that are located on privately owned property. **Notwithstanding any other provision of any law, the commissioner of transportation may enter into an agreement with a fiber optic utility for occupancy of the state right of way, provided however, any provider occupying a right of way in fulfillment of a state grant award through the New NY Broadband Program shall not be subject to a fee for such occupancy, and provided further, any fee for occupancy charged to a fiber optic utility shall be prohibited from being passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service, and provided further that any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.** If such work requires additional property or if it is necessary that the relocation of such facilities be made to other property, he may acquire such property as may be necessary for the purposes of this subdivision, in the same manner as other property is acquired for state highway purposes pursuant to this chapter, and he and the owner of such facilities may enter into a written agreement to convey such property as deemed necessary for the purposes of this subdivision

to such owner on terms beneficial to the state. The expense of such removal, relocation, replacement or reconstruction and cost of property acquisition shall be a proper charge against funds available for the construction, reconstruction or maintenance of state highways. Except when such facilities are owned by a corporation organized pursuant to the transportation corporations law, the work of such removal, relocation, replacement or reconstruction shall be performed by contract in the same manner as provided for state highways in article three of this chapter, or, by the use of departmental forces and equipment and of materials purchased therefor, unless the commissioner of transportation consents to having the owner of such facilities provide for the work of such removal, relocation, replacement or reconstruction. In the case where such facilities are owned by a corporation organized pursuant to the transportation corporations law, the work of such removal, relocation, replacement or reconstruction shall be provided for by such corporation unless it consents to having the commissioner of transportation provide for such work to be performed by contract, in accordance with specifications provided by such corporation, in the same manner as provided for state highways in article three of this chapter, or, by the use of departmental forces and equipment and of materials purchased therefor. Upon the completion of the work, such facilities shall be maintained by the owners thereof.

§ 2. The transportation corporations law is amended by adding a new section 7 to read as follows:

§ 7. Agreement for fiber optic utility occupancy of state right of way. Notwithstanding any other provision of any law, the commissioner of transportation may enter into an agreement with a fiber optic utility for occupancy of the state right of way, provided however, any provider occupying a right of way in fulfillment of a state grant award through the New NY Broadband Program shall not be subject to a fee for such occupancy, and provided further, any fee for occupancy charged to a fiber optic utility shall be prohibited from being passed through in whole or in part as a fee, charge, increased service cost, or by any other means by a fiber optic utility to any person or entity that contracts with such fiber optic utility for service, and provided further that any compensation received by the state pursuant to such agreement shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

§ 3. The general municipal law is amended by adding a new article 13-E to read as follows:

ARTICLE 13-E

SMALL WIRELESS FACILITIES DEPLOYMENT

Section 300. Definitions.
301. Use of right of way.
302. Collocation of small wireless facilities and micro wireless facilities.
303. Access to municipal corporation structures.
304. Local authority
305. Dispute resolution.
306. Indemnification.

§ 300. Definitions. For the purposes of this article, the following terms shall have the following meanings unless the context indicates otherwise:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

2. "Applicable codes" means the New York State uniform fire prevention and building code as adopted, and as may be amended, pursuant to article eighteen of the executive law.

3. "Applicant" means any person or entity that files an application with a municipal corporation to install or modify wireless facilities on behalf of a communications service provider or wireless provider.

4. "Application" means a request submitted by an applicant to a local government for a permit to collocate small wireless facilities; or to approve the installation or modification of a utility pole or wireless support structure.

5. "Application fee" means the one time fee charged to an applicant by a municipal corporation for review of an application. The application fee may not exceed the actual reasonable costs incurred by the municipal corporation in connection with its review of the application.

6. "Pole" means: (i) a utility pole, other than a utility pole for designated services, owned or operated by a municipal corporation in the right of way, including a utility pole that provides lighting or traffic control functions, including light poles, traffic signals, and structures for signage; and (ii) a pole or similar structure owned or operated by a municipal corporation in the right of way that supports only wireless facilities.

7. "Base station" means wireless facilities or a wireless support structure or utility pole that currently supports wireless facilities. The term does not include a tower, as defined in 47 U.S.C. § 1.40001(b)(9), or associated wireless facilities.

8. "Collocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. The term "collocation" has a corresponding meaning.

9. "Communications service provider" means a cable operator, as defined in 47 U.S.C. § 522(5); a provider of information service, as defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined in 47 U.S.C. § 153(51); or a wireless provider.

10. "FCC" means the Federal Communications Commission of the United States.

11. "Fee" means a one-time charge.

12. "Law" means federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

13. "Micro wireless facility" means a wireless facility that meets the following qualifications: (i) is not larger in dimension than twenty-four inches in length, fifteen inches in width, and twelve inches in height; and (ii) any exterior antenna is no longer than eleven inches.

14. "Permit" means a written authorization required by a municipal corporation to perform an action or initiate, continue, or complete a project relating to the installation or modification of wireless facilities.

15. "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

16. "Rate" means a recurring charge.

17. "Right of way" or "ROW" means the area on, below, or above a public roadway, highway, street, sidewalk, alley, utility easement, or similar property, but not including a federal interstate highway.

18. "Small wireless facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

19. "Substantial modification" means a proposed modification to an existing wireless support structure or base station which will substantially change the physical dimensions of the wireless support structure or base station under the objective standard for substantial change adopted by the Federal Communications Commission pursuant to 47 C.F.R. § 1.40001.

20. "Utility pole" means a pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, signage, or a similar function. Such term shall not include structures supporting only wireless facilities.

21. "Utility pole for designated services" means a utility pole owned or operated in the ROW by a municipal corporation, a public utility district, an electric membership corporation, or a rural electric cooperative that is designed to, or used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable, or electric service.

22. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities and micro wireless facilities. The term does not include the structure or improvements on, under, or within which the equipment is collocated. The term does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

23. "Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.

24. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

25. "Wireless services" means any services, whether at a fixed location or mobile, provided using wireless facilities.

26. "Wireless services provider" means any person or entity that provides wireless services.

27. "Wireless support structure" means a freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or, other existing or proposed structure designed to support or capable of

supporting wireless facilities. Such term shall not include a utility pole.

§ 301. Use of right of way. 1. Applicability. This section shall only apply to the activities of a wireless provider within the right of way.

2. Exclusive use prohibited. A municipal corporation may not enter into an exclusive arrangement with any person for use of the right of way for the construction, operation, marketing, or maintenance of wireless facilities or wireless support structures or the collocation of small wireless facilities or micro wireless facilities.

3. Right of way rates and fees. A municipal corporation may only charge a wireless provider a rate or fee for the use of the right of way with respect to the construction, installation, mounting, maintenance, modification, operation, or replacement of a wireless facility or wireless support structure in the right of way, including collocation in such right of way, if the municipal corporation charges other communications service providers or publicly, cooperatively, or municipally owned utilities for the use of the right of way. If a municipal corporation is authorized by applicable law to charge a rate or fee to those persons or entities, and does so, any such rate or fee for a wireless provider must be: (i) limited to no more than the direct and actual cost of managing the right of way; and (ii) competitively neutral with regard to other users of the right of way, including investor, municipal corporation, or cooperatively owned entities. No rate or fee may: (i) result in a double recovery where existing rates, fees, or taxes already recover the direct and actual costs of managing the rights of way; (ii) be in the form of a franchise or other fee based on revenue or customer counts; (iii) be unreasonable or discriminatory; (iv) violate any applicable law; or (v) exceed an annual amount equal to twenty dollars times the number of utility poles or wireless support structures in the municipal corporation's geographic jurisdiction on which the wireless provider has collocated a small wireless facility antenna. Notwithstanding the foregoing, in recognition of the public benefits of the deployment of wireless services, a municipal corporation is permitted, on a nondiscriminatory basis, to refrain from charging any rate or fee to a wireless provider for the use of the right of way.

4. Rate or fee adjustment. Should a municipal corporation have an existing rate or fee to construct, install, mount, maintain, modify, operate, or replace a wireless facility or wireless support structure in the ROW, including collocation in such ROW, controlled by the municipal corporation and such rate or fee does not comply with the requirements in subdivision three of this section, not later than six months following the effective date of this article, the municipal corporation shall implement a revised rate or fee to ensure compliance with such subdivision three for all affected persons.

5. Right of access. Subject to the provisions of this section and approval of an application, if required, a wireless provider shall have the right, as a permitted use not subject to zoning review or approval, but subject to the issuance of a permit by the municipal corporation as provided in this article, to collocate wireless facilities and construct, modify, maintain, and operate utility poles, wireless support structures, conduit, cable, and related appurtenances and facilities along, across, upon, and under the ROW. Such structures and facilities shall be so constructed and maintained as not to obstruct or hinder the usual travel or public safety on such ROW or obstruct the legal use of such ROW by other utilities. Each new or modified utility pole and wireless support structure installed in the ROW shall not exceed the greater

of (i) ten feet in height above the tallest existing utility pole in place as of the effective date of this article located within five hundred feet of the new pole in the same ROW; or (ii) fifty feet above ground level. New wireless facilities in the ROW may not extend (i) more than ten feet above an existing utility pole or wireless support structure in place as of the effective date of this article; or (ii) above the height permitted for a new utility pole or wireless support structure under this section. Notwithstanding the foregoing:

a. Subject to this article, a wireless provider shall have the right to construct, modify and maintain a utility pole, wireless support structure, or wireless facility that exceeds these size limits along, across, upon and under the ROW, subject to review in accordance with applicable municipal zoning regulations; and

b. Applicants shall comply with nondiscriminatory undergrounding requirements after obtaining prior zoning approval in areas zoned for single family residential use, provided that such requirements shall not prohibit the replacement of existing structures or result in an effective prohibition of services. In all other zoning districts, prior zoning approval shall not be required for undergrounding new infrastructure associated with small wireless facilities.

6. No discrimination. The municipal corporation, in the exercise of its administration and regulation related to the management of the ROW must be competitively neutral with regard to other users of the ROW, including that terms may not be unreasonable or discriminatory and may not violate any applicable law.

7. Damage and repair. The municipal corporation may require a wireless provider to repair all damage to the ROW directly caused by the activities of the wireless provider, while occupying, installing, repairing or maintaining wireless facilities, wireless support structures, or utility poles in the ROW and to return the ROW to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications of the municipal corporation. If the wireless provider fails to make the repairs reasonably required by the municipal corporation within a reasonable time after written notice, the municipal corporation may effect those repairs and charge the applicable party the reasonable, documented actual cost of such repairs.

§ 302. Collocation of small wireless facilities and micro wireless facilities. 1. Applicability. The provisions of this section shall apply to activities of a wireless provider within or outside of the right of way.

2. Except as expressly provided in this article, no municipal corporation may regulate, prohibit or charge for the collocation of small/micro wireless facilities.

3. Small wireless facilities and micro wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they are collocated: (i) in the right of way in any zoning district; or (ii) outside the right of way in property not zoned exclusively for single family residential use.

4. A municipal corporation may require an applicant to obtain one or more permits to collocate a small wireless facility, provided such permits are of general applicability and do not apply exclusively to wireless facilities. A municipal corporation shall receive applications for, process, and issue such Permits subject to the following requirements: (i) no municipal corporation may, directly or indirectly, require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the municipal

corporation, including reserving fiber, conduit, or pole space for the municipal corporation; (ii) no applicant shall be required to provide more information to obtain a permit than communications service providers that are not wireless providers; (iii) within ten days of receiving an application, a municipal corporation shall determine and notify the applicant whether the application is complete. If an application is incomplete, the municipal corporation shall specifically identify what information is missing; (iv) an application shall be processed on a nondiscriminatory basis and shall be deemed approved if the municipal corporation fails to otherwise approve or deny the application within sixty days of receipt; and (v) a municipal corporation shall approve an application unless it does not meet the requirements of this article. The municipal corporation shall document the basis for any denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on or before the day the municipal corporation denies the application. The applicant may cure the deficiencies identified by the municipal corporation and resubmit the application within thirty days of the denial without paying an additional application fee. The municipal corporation shall approve or deny the revised application within thirty days. Any subsequent review shall be limited to the deficiencies cited in the denial; (vi) an applicant seeking to collocate small wireless facilities within the jurisdiction of a single municipal corporation shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of multiple small wireless facilities; (vii) collocation for which a permit has been granted shall commence within one year of approval and shall be pursued to completion; and (viii) no municipal corporation may institute, either expressly or de facto, a moratorium on: a. filing, receiving, or processing applications; or b. issuing permits or other approvals, if any, for the collocation of small wireless facilities.

5. Application fees shall be subject to the following requirements: (i) a municipal corporation may charge an application fee only if such fee is required for similar types of commercial development within the municipal corporation's jurisdiction; (ii) a municipal corporation shall only charge a fee for the actual, direct, and reasonable costs incurred by the municipal corporation relating to the granting or processing of an application. Such fees shall be reasonably related in time to the incurring of such costs. Where such costs are already recovered by existing fees, rates, or taxes paid by a wireless provider, no application fee shall be assessed to recover such costs; (iii) a fee may not include: a. travel expenses incurred by a third party in its review of an application; or b. direct payment or reimbursement of third party rates or fees charged on a contingency basis or a result-based arrangement; (iv) in any controversy concerning the appropriateness of a fee, the municipal corporation shall have the burden of proving that the fee is reasonably related to the actual, direct, and reasonable costs incurred by the municipal corporation; (v) total application fees, where permitted, shall not exceed the lesser of the amount charged by the municipal corporation for: a. a building permit for any similar commercial construction, activity, or land use development; or b. one hundred dollars each for up to five small wireless facilities addressed in an application and fifty dollars for each additional small wireless facility addressed in the application.

6. No municipal corporation shall require an application for: (i) routine maintenance; (ii) the replacement of wireless facilities with

wireless facilities that are substantially similar or the same size or smaller; or (iii) the installation, placement, maintenance, operation or replacement of micro wireless facilities that are strung on cables between existing utility poles, in compliance with the national electrical safety code. A municipal corporation may require a permit to work within the right of way for such activities, if applicable. Any such permits shall be subject to the requirements of this section.

§ 303. Access to municipal corporation structures. 1. Collocation of small wireless facilities on or adjacent to municipal corporation poles and utility poles for designated services. (i) Exclusive arrangements prohibited. A person owning or controlling municipal poles or utility poles for designated services may not enter into an exclusive arrangement with any person for the right to attach to or adjacent to such poles.

(ii) Rates. a. The rates and fees for collocations on or adjacent to municipal corporation poles or utility poles for designated services shall be nondiscriminatory regardless of the services provided by the collocating person; b. the rate to collocate on or adjacent to utility poles for designated services may not exceed the annual recurring rate that would be permitted under rules adopted by the FCC under 47 U.S.C. § 224(e) if the rates were regulated by the FCC or twenty dollars per year per wooden utility pole or two hundred dollars per year per metal, concrete, or fiberglass utility pole, whichever is less; c. the rate to collocate on municipal corporation poles shall recover the actual, direct, and reasonable costs related to the applicant's application for and use of space on the municipal corporation pole; d. the total annual rate for collocations and any activities related to such collocations shall not exceed the lesser of actual, direct, and reasonable costs related to the collocation on or adjacent to the pole or twenty dollars per year per wooden utility pole or two hundred dollars per year per metal, concrete, or fiberglass utility pole, whichever is less; e. in any controversy concerning the appropriateness of a rate for a municipal corporation's pole, the municipal corporation shall have the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the pole for such period; f. should a municipal corporation, municipally-owned or operated-person, public utility district, or cooperative have an existing pole attachment rate, fee, or other term that does not comply with the requirements of this section, the municipal corporation, municipally-owned or operated person, public utility district, or cooperative shall, not later than six months following the effective date of this article, reform such rate, fee, or term in compliance with this subdivision.

(iii) Rates, fees, and terms to be offered. Persons owning or controlling municipal corporation poles and utility poles for designated services shall offer rates, fees, and other terms that comply with the provision set forth in this section within the later of six months of the effective date of this article or three months after receiving a request to collocate its first small wireless facility on a municipal corporation pole or a utility pole for designated services owned or controlled by a municipal corporation.

2. Collocation on or adjacent to municipal corporation wireless support structures and utility poles outside the right of way. A municipal corporation shall authorize the collocation of small wireless facilities and micro wireless facilities on or adjacent to wireless support structures and utility poles owned or controlled by a municipal corporation that are not located within the right of way to the same extent

the municipal corporation permits access to such structures for other commercial projects or uses. Such collocations shall be subject to reasonable and nondiscriminatory rates, fees, and terms as provided in an agreement between the municipal corporation and the wireless provider.

§ 304. Local authority. Subject to the provisions of this article and applicable federal law, a municipal corporation may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries, including with respect to wireless support structure and utility poles; except that no municipal corporation shall have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of any small wireless facility or micro wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not otherwise owned or controlled by the municipal corporation, other than to comply with applicable codes. Nothing in this article authorizes the state or any political subdivision, including a municipal corporation, to require wireless facility deployment or to regulate wireless services.

§ 305. Dispute resolution. Courts of competent jurisdiction shall have jurisdiction to determine all disputes arising under this article.

§ 306. Indemnification. No municipal corporation shall require a wireless provider to indemnify and hold the municipal corporation and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while installing, repairing or maintaining caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees or to require a wireless provider to obtain insurance naming the municipal corporation or its officers and employees an additional insured against any of the foregoing.

§ 4. This act shall take effect immediately; provided, however, that section three of this act shall take effect on the thirtieth day after it shall have become a law.

PART G

Section 1. Paragraph (c) of subdivision 3 of section 501 of the vehicle and traffic law, as added by chapter 449 of the laws of 1989, is amended to read as follows:

(c) in the city of New York, [~~driving shall be prohibited~~] from five o'clock in the morning to nine o'clock in the evening, when accompanied by a person at least twenty-one years of age and who is a duly licensed parent, guardian, person in a position of loco parentis to the licensee, driver education teacher, or driving school instructor, when operating a vehicle equipped with dual brake controls.

§ 2. Subdivision 2 of section 510-c of the vehicle and traffic law, as amended by section 5 of part B of chapter 55 of the laws of 2014, is amended to read as follows:

2. For purposes of this section, the term "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-five and twenty-six; subdivision one of section six hundred; section six hundred one; sections eleven hundred eleven, eleven hundred seventy, eleven hundred seventy-two and eleven hundred seventy-four; subdivisions (a), (b), (c), (d) and (f) of section eleven hundred eighty, provided that the violation involved ten or more miles per hour over the established

limit; section eleven hundred eighty-two; subdivision [~~three-a~~] three-b of section twelve hundred twenty-nine-c for violations involving use of safety belts or seats by a child under the age of sixteen; and section twelve hundred twelve of this chapter.

§ 3. Subdivision 3 of section 1225-c of the vehicle and traffic law, as added by chapter 69 of the laws of 2001, is amended and a new subdivision 2-a is added to read as follows:

2-a. No person under eighteen years of age shall operate a motor vehicle upon a public highway while engaging in a call with a hand-held or hands-free mobile telephone. For the purposes of this subdivision, engaging in a call shall include making or receiving a call with a hand-held or hands-free mobile telephone.

3. [~~Subdivision~~] Subdivisions two and two-a of this section shall not apply to (a) the use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter, or (c) except as applied to persons under the age of eighteen years, the use of a hands-free mobile telephone.

§ 4. Paragraphs (a) and (b) of subdivision 2 of section 1225-d of the vehicle and traffic law, as amended by section 8 of part C of chapter 58 of the laws of 2013, are amended to read as follows:

(a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other [~~electronic~~] personal wireless communications device when used to input, write, send, receive, or read text or images for present or future communication, including doing so for the purpose of SMS texting, emailing, instant messaging, or engaging in any other form of electronic data retrieval or electronic data communication.

(b) "Using" shall mean holding or making contact with a portable electronic device [~~while~~] for the purpose of viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data.

§ 5. Subdivision 2 of section 1225-d of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(e) "Personal wireless communications device" (i) means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted; and

(ii) does not include a global navigation satellite system receiver used for positioning, emergency notification, or navigation purposes.

§ 6. Subdivision 4 of section 1225-d of the vehicle and traffic law, as amended by section 10 of part C of chapter 58 of the laws of 2013, is amended to read as follows:

4. A person who [~~holds~~] uses a portable electronic device in a conspicuous manner while operating a motor vehicle or while operating a commercial motor vehicle on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays but not including when such commercial motor vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer is presumed to be using such device, except that a person operating a commercial motor vehicle while using a portable electronic device when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be using such device. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not using the device within the meaning of this section.

§ 7. Subdivision 3 of section 1229-c of the vehicle and traffic law, as added by chapter 365 of the laws of 1984, is amended to read as follows:

3. No person shall operate a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in [~~the front seat of~~] a motor vehicle unless such person is restrained by a safety belt approved by the commissioner.

§ 8. Subdivision 13 of section 1229-c of the vehicle and traffic law, as amended by chapter 20 of the laws of 2008, is amended to read as follows:

13. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner or, regarding occupants age four or older but under age [~~seven~~] eight, are restrained pursuant to subdivision one or two of this section.

§ 9. The vehicle and traffic law is amended by adding a new section 1170-a to read as follows:

§ 1170-a. Owner liability for failure of operator to obey signal indicating approach of train. (a) 1. Notwithstanding any other provision of law, any political subdivision as defined herein is hereby authorized and empowered to adopt and amend a local law, ordinance or resolution establishing a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy of this article. Such demonstration program shall empower a political subdivision to install and operate railroad grade crossing photo violation-monitoring devices at any railroad sign or signal over which it has jurisdiction. The cost of the photo violation monitoring devices may be borne by the political subdivision, a commuter railroad operating within such political subdivision, or a combination of both such political subdivision and commuter railroad pursuant to a memorandum of understanding.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such railroad grade crossing photo violation-monitoring systems shall not include images that identify the driver, the passengers or the contents of the vehicle. Notwithstanding any foregoing, no notice of liability issued pursuant to this section shall be dismissed solely because a

photograph or photographs allow for the identification of the contents of a vehicle, provided that such political subdivision has made a reasonable effort to comply with the provisions of this paragraph.

(b) Within the jurisdiction of any such political subdivision which has adopted a local law, ordinance or resolution pursuant to subdivision (a) of this section, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of section eleven hundred seventy of this article, and such violation is evidence by information obtained from a railroad grade crossing photo violation-monitoring system; provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of section eleven hundred seventy of this article.

(c) For purposes of this section, the following terms shall have the following meaning:

1. "Owner" shall have the meaning provided in article two-B of this chapter;

2. "Railroad grade crossing photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a railroad sign or signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of section eleven hundred seventy of this article;

3. "Political subdivision" shall mean a county, city, town, or village located in the metropolitan commuter transportation district, as such district is defined in section twelve hundred sixty-two of the public authorities law; and

4. "Commuter railroad" shall mean a railroad owned and operated by the metropolitan transportation authority within the metropolitan commuter transportation district, as such term is defined in section twelve hundred sixty-two of the public authorities law.

(d) A certificate, sworn to or affirmed by a technician employed by the commuter railroad or by the political subdivision in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a railroad grade crossing photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to a local law, ordinance or resolution adopted pursuant to this section.

(e) An owner liable for a violation of section eleven hundred seventy of this article pursuant to a local law, ordinance or resolution adopted pursuant to this section shall be liable for monetary penalties in accordance with a schedule of fines and penalties to be established in such local law, ordinance or resolution. The liability of the owner pursuant to this section shall not exceed two hundred fifty dollars for each violation; provided, however, that an adjudicating authority may provide for an additional penalty not in excess of fifty dollars for each violation for the failure to respond to a notice of liability within the prescribed period of time.

(f) An imposition of liability under a local law, ordinance or resolution adopted pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the

person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

(g) 1. 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 section eleven hundred seventy of this article pursuant to this section. 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 facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of section eleven hundred seventy of this article pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the person charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the political subdivision, or by any other entity authorized by such political subdivision to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by the court having jurisdiction over traffic infractions, except that if such political subdivision has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations such political subdivision may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to a law enforcement agency as having been stolen, it shall be a valid defense to an allegation of liability for a violation of section eleven hundred seventy of this article pursuant to this section that the vehicle has been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of a police report on the stolen vehicle be sent by first class mail to the court having jurisdiction or parking violations bureau.

(j) 1. In such political subdivision where the adjudication of liability imposed upon owners pursuant to this section is by a court having jurisdiction, and an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of section eleven hundred seventy of this article, provided that he or she sends to the court having jurisdiction of a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the

provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of section eleven hundred seventy of this article pursuant to subdivision (g) of this section.

2. (i) In any political subdivision which has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of section eleven hundred seventy of this article, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of section eleven hundred seventy of this article pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to comply with the provisions of section eleven hundred seventy of this article. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to comply with the provisions of section eleven hundred seventy of this article.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of section eleven hundred seventy of this article.

(m) In any such political subdivision which adopts a demonstration program pursuant to subdivision (a) of this section, such political subdivision shall submit an annual report on the results of the use of a railroad grade crossing photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand eighteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the location where railroad grade crossing photo violation-monitoring system was used;

2. the aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department;

3. the aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used, to the extent the information is maintained by the department;

4. the number of violations recorded at each intersection where a railroad grade crossing photo violation-monitoring system is used and in the aggregate on a daily, weekly, and monthly basis;

5. the total number of notices of liability issued for violations recorded by such systems;

6. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by such political subdivision from such adjudications;

9. expenses incurred by such political subdivision in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be an affirmative defense to any prosecution for a violation of section eleven hundred seventy of this article pursuant to a local law or ordinance adopted pursuant to this section that there is verified evidence that the railroad signal indications were malfunctioning at the time of the alleged violation.

§ 10. The vehicle and traffic law is amended by adding a new section 1633 to read as follows:

§ 1633. Railroad grade crossing enforcement; demonstration program. (a) 1. Notwithstanding any other provision of law, the Long Island Rail Road and the Metro-North Commuter Railroad (hereinafter referred to as "the commuter railroads") are hereby authorized and empowered to implement a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with section eleven hundred seventy of this chapter. Such demonstration program shall empower each of the commuter railroads to install and operate railroad grade crossing photo verification-monitoring devices at any railroad sign or signal that indicates the approach of one of its trains. A violation committed pursuant to the provisions of this section shall be deemed a traffic infraction, and adjudication of the traffic infraction against the owner shall be in accordance with the provisions of this chapter.

2. Such demonstration program shall utilize necessary technologies to ensure, to the extent practicable, that photographs produced by such railroad grade crossing photo violation-monitoring systems shall not include images that identify the driver, the passengers or the contents of the vehicle. Provided, however, that no notice of liability issued pursuant to this section shall be dismissed solely because a photograph or photographs allow for the identification of the contents of a vehicle, provided that the commuter railroad has made a reasonable effort to comply with the provisions of this paragraph.

(b) Within the jurisdiction of any such commuter railroad pursuant to subdivision (a) of this section, and subject to the adjudicatory process of the appropriate political subdivision, the owner of a vehicle shall be liable for a penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of section eleven hundred seventy of this chapter, and such violation is evidenced by information obtained from a railroad grade crossing photo violation-monitoring system; provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of the underlying violation of section eleven hundred seventy of this chapter.

(c) For purposes of this section, the following terms shall have the following meaning:

1. "Owner" shall have the meaning provided in article two-B of this chapter;

2. "Railroad grade crossing photo violation-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a railroad sign or signal which automatically produces two or more photographs, two or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of section eleven hundred seventy of this chapter;

3. "Political subdivision" shall mean a county, city, town or village located in the metropolitan commuter transportation district, as such district is defined in section twelve hundred sixty-two of the public authorities law;

(d) A certificate, sworn to or affirmed by a technician employed by the commuter railroad where the charged violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a railroad grade crossing photo violation-monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to law.

(e) An owner liable for a violation of section eleven hundred seventy of this chapter pursuant to a railroad grade crossing demonstration project adopted pursuant to this section shall be liable for monetary penalties not to exceed two hundred fifty dollars for each violation; provided, however, that an adjudicating authority may provide for an additional penalty of not in excess of fifty dollars for each violation for the failure to respond to a notice of liability within the prescribed period of time.

(f) An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of the motor vehicle insurance coverage.

(g) 1. 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 section eleven hundred seventy of this chapter pursuant to this section. 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 facts contained therein.

2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of section elev-

en hundred seventy of this chapter pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the camera which recorded the violation or other document locator number.

3. The notice of liability shall contain information advising the person charged of the manner and the time in which he or she may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the person charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

4. The notice of liability shall be prepared and mailed by the commuter railroad, or by any other entity authorized by such commuter railroad to prepare and mail such notification of violation.

(h) Adjudication of the liability imposed upon owners by this section shall be by the court having jurisdiction over traffic infractions, except that if a political subdivision has established an administrative tribunal to hear and determine complaints of traffic infractions constituting parking, standing or stopping violations such political subdivision may, by local law, authorize such adjudication by such tribunal.

(i) If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to a law enforcement agency as having been stolen, it shall be a valid defense to an allegation of liability for a violation of section eleven hundred seventy of this chapter pursuant to this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and has not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of a police report on the stolen vehicle be sent by first class mail to the court having jurisdiction or parking violations bureau.

(j) 1. In any political subdivision where the adjudication of liability imposed upon owners pursuant to this section is by a court having jurisdiction, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of section eleven hundred seventy of this chapter, provided that he or she send to the court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty-seven days after receiving notice from the court of the date and time of such violation, together with the other information contained in the original notice of liability. Failure to send such information within such thirty-seven day time period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation of section eleven hundred seventy of this chapter pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

2. (i) In any political subdivision which has authorized the adjudication of liability imposed upon owners by this section by a parking violations bureau, an owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision (g) of this section shall not be liable for the violation of section eleven hundred seventy of this chapter, provided that:

(A) prior to the violation, the lessor has filed with the bureau in accordance with the provisions of section two hundred thirty-nine of this chapter; and

(B) within thirty-seven days after receiving notice from the bureau of the date and time of a liability, together with the other information contained in the original notice of liability, the lessor submits to the bureau the correct name and address of the lessee of the vehicle identified in the notice of liability at the time of such violation, together with such other additional information contained in the rental, lease or other contract document, as may be reasonably required by the bureau pursuant to regulations that may be reasonably required by the bureau pursuant to regulations that may be promulgated for such purpose.

(ii) Failure to comply with clause (B) of subparagraph (i) of this paragraph shall render the owner liable for the penalty prescribed in this section.

(iii) Where the lessor complies with the provision of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for such violation pursuant to this section and shall be sent a notice of liability pursuant to subdivision (g) of this section.

(k) 1. If the owner liable for a violation of section eleven hundred seventy of this chapter pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

2. Notwithstanding any other provision of this section, no owner of a vehicle shall be subject to a monetary fine imposed pursuant to this section if the operator of such vehicle was operating such vehicle without the consent of the owner at the time such operator failed to obey a railroad sign or signal indicating the approach of a train. For purposes of this subdivision there shall be a presumption that the operator of such vehicle was operating such vehicle with the consent of the owner at the time such operator failed to obey a railroad sign or signal indicating the approach of a train.

(l) Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of section eleven hundred seventy of this chapter.

(m) Where a commuter railroad adopts a demonstration program pursuant to subdivision (a) of this section, such railroad shall submit an annual report on the results of the use of a railroad grade crossing photo violation-monitoring system to the governor, the temporary president of the senate and the speaker of the assembly on or before June first, two thousand eighteen and on the same date in each succeeding year in which the demonstration program is operable. Such report shall include, but not be limited to:

1. a description of the locations where railroad grade crossing photo violation-monitoring systems were used;

2. the aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used for the year preceding the installation of such system, to the extent the information is maintained by the department;

3. The aggregate number, type and severity of accidents reported at intersections where a railroad grade crossing photo violation-monitoring system is used, to the extent the information is maintained by the department;

4. the number of violations recorded at each intersection where a railroad grade crossing photo violation-monitoring system is used and in the aggregate on a daily, weekly, and monthly basis;

5. the total number of notices of liability issued for violations recorded by such systems;

6. the number of fines and total amount of fines paid after first notice of liability issued for violations recorded by such systems;

7. the number of violations adjudicated and results of such adjudications including breakdowns of dispositions made for violations recorded by such systems;

8. the total amount of revenue realized by all applicable political subdivision from such adjudications;

9. expenses incurred by such commuter railroad in connection with the program; and

10. quality of the adjudication process and its results.

(n) It shall be an affirmative defense to any prosecution for a violation of section eleven hundred seventy of this chapter pursuant to a local law or ordinance adopted pursuant to this section that there is verified evidence that the railroad signal indications were malfunctioning at the time of the alleged violation.

§ 11. The opening paragraph of subdivision 1 of section 1803 of the vehicle and traffic law, as amended by chapter 385 of the laws of 1999, is amended to read as follows:

Except as otherwise provided in subdivision five of section two hundred twenty-seven of this chapter [~~and as provided in~~], section sixteen hundred thirty-three of this chapter and section eleven hundred ninety-seven of this chapter, section ninety of the state finance law and sections fourteen-f and one hundred forty of the transportation law, all fines and penalties collected under a sentence or judgment of conviction of a violation of this chapter or of any act relating to the use of highways by motor vehicles or trailers, now in force or hereafter enacted, shall be distributed in the following manner:

§ 12. Section 1803 of the vehicle and traffic law is amended by adding a new subdivision 10 to read as follows:

10. Where a commuter railroad establishes a railroad grade crossing demonstration program pursuant to section sixteen hundred thirty-three of this chapter, all fines, penalties and forfeitures collected pursuant to such section shall be paid to the county, city, town, or village having jurisdiction of the railroad grade crossing.

§ 13. Subdivision 2 of section 87 of the public officers law is amended by adding a new paragraph (p) to read as follows:

(p) are photographs, microphotographs, videotape or other recorded images prepared under the authority of section eleven hundred seventy-a or section sixteen hundred thirty-three of the vehicle and traffic law.

§ 14. This act shall take effect immediately; provided, however, that:

(a) sections one, two, seven and eight of this act of this act shall take effect on the first of November next succeeding the date on which it shall have become a law;

(b) sections three, four, five and six of this act shall take effect October 1, 2018; and provided, further that:

(c) sections nine, ten, eleven, twelve and thirteen of this act shall take effect on the thirtieth day after it shall have become a law.

PART H

Section 1. Paragraph a of section 1 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, is amended to read as follows:

a. Notwithstanding the provisions of section 1226 of the vehicle and traffic law, the New York state commissioner of motor vehicles may approve demonstrations and tests consisting of the operation of a motor vehicle equipped with autonomous vehicle technology while such motor vehicle is engaged in the use of such technology on public highways within this state for the purposes of demonstrating and assessing the current development of autonomous vehicle technology and to begin identifying potential impacts of such technology on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Provided, however, that such [~~demonstrations and tests shall only take place under the direct supervision of the New York state police. Such~~] demonstrations and tests shall take place in a manner and form prescribed by the commissioner of motor vehicles including, but not limited to: a requirement that a natural person holding a valid license for the operation of the motor vehicle's class be present within such vehicle for the duration of the time it is operated on public highways; a requirement that the motor vehicle utilized in such demonstrations and tests complies with all applicable federal motor vehicle safety standards and New York state motor vehicle inspection standards; and a requirement that the motor vehicle utilized in such demonstrations and tests has in place, at a minimum, financial security in the amount of five million dollars. Nothing in this act shall authorize the motor vehicle utilized in such demonstrations and tests to operate in violation of article 22 or title 7 of the vehicle and traffic law, excluding section 1226 of such law.

§ 2. Section 2 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, is amended to read as follows:

§ 2. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section one of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report on or before June [~~1, 2018~~] **first of each year section one of this act remains in effect**.

§ 3. Section 3 of part FF of chapter 55 of the laws of 2017 relating to motor vehicles equipped with autonomous vehicle technology, is amended to read as follows:

§ 3. This act shall take effect April 1, 2017; provided, however, that section one of this act shall expire and be deemed repealed April 1, [~~2018~~] **2020**.

§ 4. a. The New York state commissioner of motor vehicles may approve demonstrations and tests consisting of the operation of a motor vehicle equipped with autonomous vehicle technology while such motor vehicle is engaged in the use of such technology on public highways within this state for the purposes of demonstrating and assessing the current development of autonomous vehicle technology and to begin identifying poten-

tial impacts of such technology on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such demonstrations and tests shall take place in a manner and form prescribed by the commissioner of motor vehicles including, but not limited to: a requirement that the motor vehicle utilized in such demonstrations and tests complies with all applicable federal motor vehicle safety standards and New York state motor vehicle inspection standards; and a requirement that the motor vehicle utilized in such demonstrations and tests has in place, at a minimum, financial security in the amount of five million dollars. Nothing in this act shall authorize the motor vehicle utilized in such demonstrations and tests to operate in violation of article 22 or title 7 of the vehicle and traffic law, excluding section 1226 of such law.

b. For the purposes of this section, the term "autonomous vehicle technology" shall mean the hardware and software that are collectively capable of performing part or all of the dynamic driving task on a sustained basis, and the term "dynamic driving task" shall mean all of the real-time operational and tactical functions required to operate a vehicle in on-road traffic, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints.

§ 5. The commissioner of motor vehicles shall, in consultation with the superintendent of state police, submit a report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly transportation committees on the demonstrations and tests authorized by section four of this act. Such report shall include, but not be limited to, a description of the parameters and purpose of such demonstrations and tests, the location or locations where demonstrations and tests were conducted, the demonstrations' and tests' impacts on safety, traffic control, traffic enforcement, emergency services, and such other areas as may be identified by such commissioner. Such commissioner shall submit such report on or before June first of each year section four of this act remains in effect.

§ 6. Section 1226 of the vehicle and traffic law is REPEALED.

§ 7. The commissioner of motor vehicles and the superintendent of financial services shall establish regulations consistent with this act.

§ 8. This act shall take effect immediately; provided, however, that:

(a) the amendments to subdivision a of section 1 of part FF of chapter 55 of the laws of 2017 made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith; and

(b) sections four, five and six of this act shall take effect April 1, 2020.

PART I

Section 1. The closing paragraph of subdivision 3 of section 99-a of the state finance law, as amended by section 3 of part GG of chapter 55 of the laws of 2017, is amended to read as follows:

The comptroller may require such reporting and record keeping as he or she deems necessary to ensure the proper distribution of moneys in accordance with applicable laws. A justice court or the Nassau and Suffolk counties traffic and parking violations agencies or the city of Buffalo traffic violations agency [~~or the city of New York pursuant to article two-A of the vehicle and traffic law~~] may utilize these proce-

dures only when permitted by the comptroller, and such permission, once given, may subsequently be withdrawn by the comptroller on due notice.

§ 2. The closing paragraph of subdivision 3 of section 99-a of the state finance law, as amended by section 10 of chapter 157 of the laws of 2017, is amended to read as follows:

The comptroller may require such reporting and record keeping as he or she deems necessary to ensure the proper distribution of moneys in accordance with applicable laws. A justice court or the Nassau and Suffolk counties traffic and parking violations agencies or the city of Buffalo traffic violations agency or the city of Rochester traffic violations agency [~~or the city of New York pursuant to article two-A of the vehicle and traffic law~~] may utilize these procedures only when permitted by the comptroller, and such permission, once given, may subsequently be withdrawn by the comptroller on due notice.

§ 3. This act shall take effect immediately; provided, however, that the amendments to the closing paragraph of subdivision 3 of section 99-a of the state finance law as made by section two of this act shall take effect on the same date and in the same manner as section 10 of chapter 157 of the laws of 2017 takes effect, and shall be subject to the expiration of such subdivision pursuant to section 4 of part GG of chapter 55 of the laws of 2017, as amended, and shall be deemed expired therewith.

PART J

Section 1. The vehicle and traffic law is amended by adding a new article 12-D to read as follows:

ARTICLE 12-D

PRE-LICENSING COURSE INTERNET PILOT PROGRAM

Section 399-p. Pre-licensing course internet pilot program.
399-q. Application.
399-r. Regulations and fees.
399-s. Pilot program scope and duration.
399-t. Report by commissioner.

§ 399-p. Pre-licensing course internet pilot program. The commissioner shall establish, by regulation, a comprehensive pilot program to allow use of the internet, for the administration and completion of an approved pre-licensing course, which shall be deemed the equivalent of the course required by subparagraph (i) of paragraph (a) of subdivision four of section five hundred two of this chapter.

§ 399-q. Application. An applicant for participation in the pilot program established pursuant to this article shall be an approved sponsor of an internet accident prevention course, pursuant to article twelve-C of this title, prior to the effective date of this article. In order to be approved for participation in such pilot program, the course must comply with provisions of law, rules and regulations applicable thereto. The commissioner may, in his or her discretion, impose a fee for the submission of each application. Such fee shall not exceed seven thousand five hundred dollars, which shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

§ 399-r. Regulations and fees. 1. The commissioner is authorized to promulgate any rules and regulations necessary to implement the provisions of this article and to insure that the internet pilot program, as approved by the commissioner, can validate: student identity at registration and throughout the course; participation throughout the

course; that time the requirements are met; and successful completion of the course. Provided, however, that any rules and regulations promulgated pursuant to this article shall not stipulate any particular location for delivery of a pre-licensing course or limit the time of day during which such course may be taken.

2. The commissioner is authorized to impose a fee upon each pre-licensing course sponsoring agency approved to deliver such course, which shall not exceed eight dollars for each student who completes such course, and which shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

§ 399-s. Pilot program scope and duration. The commissioner shall conduct a pilot program designed to evaluate utilizing the internet for delivering an approved pre-licensing course, which shall be deemed the equivalent of the course required by subparagraph (i) of paragraph (a) of subdivision four of section five hundred two of this chapter, by permitting qualified applicants to participate in the pilot program for a period of five years.

§ 399-t. Report by commissioner. Within five years of the establishment and implementation of this article, the commissioner shall report to the governor, the temporary president of the senate and the speaker of the assembly on the pre-licensing course internet pilot program and its results. Such reports shall include recommendations as to the future use of internet as an effective way, in addition to classroom presentation, to deliver to the public approved pre-licensing courses, and qualifications for participants in such approved internet delivered programs.

§ 2. Paragraph (h) of subdivision 4 of section 502 of the vehicle and traffic law, as added by section 1 of part L of chapter 59 of the laws of 2009, is amended to read as follows:

(h) Course completion certificate fee. The fee for a course completion certificate provided by the department to an entity that is approved by the commissioner to offer the pre-licensing course, required by this subdivision, for issuance by such entity to students upon their completion of such pre-licensing course shall be one dollar. Such fee shall be paid by such entity and shall not be charged to a person who takes the course in any manner. The provisions of this paragraph shall not apply to a pre-licensing course established pursuant to article twelve-D of this chapter.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed five years after the date that the pre-licensing course internet pilot program is established and implemented by the commissioner of motor vehicles pursuant to article 12-D of the vehicle and traffic law, as added by section one of this act; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date; and provided, further, that the commissioner of motor vehicles shall notify the legislative bill drafting commission of the date he or she establishes and implements the pre-licensing course internet pilot program pursuant to article 12-D of the vehicle and traffic law, as added by section one of this act, in order that such commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART K

Section 1. Section 399-1 of the vehicle and traffic law, as amended by section 1 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

§ 399-l. Application. Applicants for participation in the pilot program established pursuant to this article shall be among those accident prevention course sponsoring agencies that have a course approved by the commissioner pursuant to article twelve-B of this title prior to the effective date of this article and which deliver such course to the public. Provided, however, the commissioner may, in his or her discretion, approve applications after such date. In order to be approved for participation in such pilot program, the course must comply with the provisions of law, rules and regulations applicable thereto. The commissioner may, in his or her discretion, impose a fee for the submission of each application to participate in the pilot program established pursuant to this article. Such fee shall not exceed seven thousand five hundred dollars. [~~The proceeds from such fee shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section.~~]

§ 2. Paragraph a of subdivision 5 of section 410 of the vehicle and traffic law, as amended by section 4 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

a. The annual fee for registration or reregistration of a motorcycle shall be eleven dollars and fifty cents. Beginning April first, nineteen hundred ninety-eight the annual fee for registration or reregistration of a motorcycle shall be seventeen dollars and fifty cents[~~, of which two dollars and fifty cents shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section~~].

§ 3. Paragraph (c-1) of subdivision 2 of section 503 of the vehicle and traffic law, as amended by section 5 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

(c-1) In addition to the fees established in paragraphs (b) and (c) of this subdivision, a fee of fifty cents for each six months or portion thereof of the period of validity shall be paid upon the issuance of any permit, license or renewal of a license which is valid for the operation of a motorcycle, except a limited use motorcycle. [~~Fees collected pursuant to this paragraph shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section.~~]

§ 4. Subdivision 5 of section 317 of the vehicle and traffic law is REPEALED.

§ 5. Paragraph (b) of subdivision 1-a of section 318 of the vehicle and traffic law, as amended by section 9 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an order of suspension issued pursuant to paragraph (a) or (e) of this subdivision may be terminated if the registrant pays to the commissioner a civil penalty in the amount of eight dollars for each day up to thirty days for which financial security was not in effect, plus ten

dollars for each day from the thirty-first to the sixtieth day for which financial security was not in effect, plus twelve dollars for each day from the sixty-first to the ninetieth day for which financial security was not in effect. [~~Of each eight dollar penalty, six dollars will be deposited in the general fund and two dollars in the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section.~~] Of each ten dollar penalty collected, [~~six~~] **eight** dollars will be deposited in the general fund[~~, two dollars will be deposited in the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section,~~] and two dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Of each twelve dollar penalty collected, [~~six~~] **eight** dollars will be deposited into the general fund[~~, two dollars will be deposited into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section,~~] and four dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. The foregoing provision shall apply only once during any thirty-six month period and only if the registrant surrendered the certificate of registration and number plates to the commissioner not more than ninety days from the date of termination of financial security or submits to the commissioner new proof of financial security which took effect not more than ninety days from the termination of financial security.

§ 6. Subdivision 6 of section 423-a of the vehicle and traffic law is REPEALED.

§ 7. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 11 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

(a) The special obligation reserve and payment account shall consist (i) of all moneys required to be deposited in the dedicated highway and bridge trust fund pursuant to the provisions of sections two hundred five, two hundred eighty-nine-e, three hundred one-j, five hundred fifteen and eleven hundred sixty-seven of the tax law, section four hundred one of the vehicle and traffic law, and section thirty-one of chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all fees, fines or penalties collected by the commissioner of transportation and the commissioner of motor vehicles pursuant to section fifty-two, section three hundred twenty-six, section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five[~~, section four hundred twenty-three-a, section four hundred ten, section three hundred seventeen, section three hundred eighteen, article twelve-C, and paragraph (c-1) of subdivision two of section five hundred three~~] of the vehicle and traffic law, section two of the chapter of the laws of two thousand three that amended this paragraph, subdivision (d) of section

three hundred four-a, paragraph one of subdivision (a) and subdivision (d) of section three hundred five, subdivision six-a of section four hundred fifteen and subdivision (g) of section twenty-one hundred twenty-five of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, and [~~sections ninety-four, one hundred thirty-five, and~~] **section** one hundred forty-five of the transportation law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

§ 8. Paragraph (a) of subdivision 3 of section 89-b of the state finance law, as amended by section 12 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

(a) The special obligation reserve and payment account shall consist (i) of all moneys required to be deposited in the dedicated highway and bridge trust fund pursuant to the provisions of sections two hundred eighty-nine-e, three hundred one-j, five hundred fifteen and eleven hundred sixty-seven of the tax law, section four hundred one of the vehicle and traffic law, and section thirty-one of chapter fifty-six of the laws of nineteen hundred ninety-three, (ii) all fees, fines or penalties collected by the commissioner of transportation and the commissioner of motor vehicles pursuant to section fifty-two, section three hundred twenty-six, section eighty-eight of the highway law, subdivision fifteen of section three hundred eighty-five[~~, section four hundred twenty-three-a, section four hundred ten, section three hundred seventeen, section three hundred eighteen, article twelve-C, and paragraph (c-1) of subdivision two of section five hundred three~~] of the vehicle and traffic law, section fifteen of this chapter, excepting moneys deposited with the state on account of betterments performed pursuant to subdivision twenty-seven or subdivision thirty-five of section ten of the highway law, and [~~sections ninety-four, one hundred thirty-five, and~~] **section** one hundred forty-five of the transportation law, (iii) any moneys collected by the department of transportation for services provided pursuant to agreements entered into in accordance with section ninety-nine-r of the general municipal law, and (iv) any other moneys collected therefor or credited or transferred thereto from any other fund, account or source.

§ 9. Subdivision 4 of section 94 of the transportation law is REPEALED.

§ 10. Subdivision 4 of section 135 of the transportation law, as amended by section 4 of part C of chapter 57 of the laws of 2014, is amended to read as follows:

4. [~~All revenues collected pursuant to this section shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law for the purposes established in this section.~~] Fees will be based on revenues from the preceding calendar year and shall be assessed on or before July first and are payable by September first of each year. On or before January first of each year following assessment of fees pursuant to this section, the commissioner shall report to the railroad companies annual costs associated with this assessment.

§ 11. Subsection (b) of section 805 of the tax law, as amended by section 1 of part C of chapter 25 of the laws of 2009, is amended to read as follows:

(b) On or before the twelfth and twenty-sixth day of each succeeding month, after reserving such amount for such refunds and deducting such amounts for such costs, as provided for in subsection (a) of this section, the commissioner shall certify to the comptroller the amount of all revenues so received during the prior month as a result of the taxes, interest and penalties so imposed. The amount of revenues so certified shall be paid over by the fifteenth and the final business day of each succeeding month from such account **without appropriation** into the [~~mobility tax trust account of the metropolitan transportation authority financial assistance fund established pursuant to section ninety-two-ff of the state finance law, for payment, pursuant to appropriations by the legislature to the~~] metropolitan transportation authority finance fund established pursuant to section twelve hundred seventy-h of the public authorities law**, provided, however, that the comptroller shall ensure that any payments to the metropolitan transportation authority finance fund which are due to be paid by the final business day in the month of December pursuant to this subsection shall be received by the metropolitan transportation authority finance fund on the same business day in which it is paid**.

§ 12. Section 4 of the state finance law is amended by adding a new subdivision 12 to read as follows:

12. Notwithstanding subdivision one of this section and any other law to the contrary, the revenue (including taxes, interest and penalties) from the metropolitan commuter transportation mobility tax imposed pursuant to article twenty-three of the tax law which are paid in accordance with subsection (b) of section eight hundred five of the tax law into the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law shall be made pursuant to statute but without an appropriation.

§ 13. Subdivision 2 of section 1270-h of the public authorities law, as added by section 16 of part H of chapter 25 of the laws of 2009, is amended to read as follows:

2. The comptroller shall deposit **into the metropolitan transportation authority finance fund (a)** monthly, pursuant to appropriation, [~~into the metropolitan transportation authority finance fund~~] the moneys deposited in the mobility tax trust account of the metropolitan transportation authority financial assistance fund pursuant to [~~article twenty-three of the tax law, and~~] any [~~other~~] provision of law directing or permitting the deposit of moneys in such fund**, and (b) without appropriation, the revenue including taxes, interest and penalties collected in accordance with article twenty-three of the tax law**.

§ 14. Subdivisions 3 and 5 of section 92-ff of the state finance law, as added by section 16 of part G of chapter 25 of the laws of 2009, are amended to read as follows:

3. Such fund shall consist of all moneys collected [~~therefore~~] **therefor** or credited or transferred thereto from any other fund, account or source, including, without limitation, the [~~revenues derived from the metropolitan commuter transportation mobility tax imposed by article twenty-three of the tax law;~~] revenues derived from the special supplemental tax on passenger car rentals imposed by section eleven hundred sixty-six-a of the tax law; revenues derived from the transportation surcharge imposed by article twenty-nine-A of the tax law; the supplemental registration fees imposed by article seventeen-C of the vehicle

and traffic law; and the supplemental metropolitan commuter transportation district license fees imposed by section five hundred three of the vehicle and traffic law. Any interest received by the comptroller on moneys on deposit in the metropolitan transportation authority financial assistance fund shall be retained in and become a part of such fund.

5. (a) The "mobility tax trust account" shall consist of [~~revenues required to be deposited therein pursuant to the provisions of article twenty-three of the tax law and all other~~] moneys credited or transferred thereto from any [~~other~~] fund or source pursuant to law.

(b) Moneys in the "mobility tax trust account" shall, pursuant to appropriation by the legislature, be transferred on a monthly basis to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law and utilized in accordance with said section. It is the intent of the legislature to enact two appropriations from the mobility tax trust account to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law. One such appropriation shall be equal to the amounts expected to be available [~~for such purpose pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision during the two thousand [~~nine~~] **eighteen**--two thousand [~~ten~~] **nineteen** fiscal year and shall be effective in that fiscal year. The other such appropriation shall be equal to the amounts expected to be available [~~for such purpose pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision during the two thousand [~~ten~~] **nineteen**--two thousand [~~eleven~~] **twenty** fiscal year and shall, notwithstanding the provisions of section forty of this chapter, take effect on the first day of the two thousand [~~ten~~] **nineteen**--two thousand [~~eleven~~] **twenty** fiscal year and lapse on the last day of that fiscal year. It is the intent of the governor to submit and the legislature to enact for each fiscal year after the two thousand [~~nine~~] **eighteen**--two thousand [~~ten~~] **nineteen** fiscal year in an annual budget bill: (i) an appropriation for the amount expected to be available in the mobility tax trust account during such fiscal year for the metropolitan transportation authority [~~pursuant to article twenty-three of the tax law or~~] **from** any [~~other~~] monies described in paragraph (a) of this subdivision; and (ii) an appropriation for the amount projected by the director of the budget to be deposited in the mobility tax trust account [~~pursuant to article twenty-three of the tax law or~~] from any [~~other~~] monies described in paragraph (a) of this subdivision for the next succeeding fiscal year. Such appropriation for payment of revenues projected to be deposited in the succeeding fiscal year shall, notwithstanding the provisions of section forty of this chapter, take effect on the first day of such succeeding fiscal year and lapse on the last day of such fiscal year. If for any fiscal year commencing on or after the first day of April, two thousand ten the governor fails to submit a budget bill containing the foregoing, or the legislature fails to enact a bill with such provisions, then the metropolitan transportation authority shall notify the comptroller, the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee of amounts required to be disbursed from the appropriation made during the preceding fiscal year for payment in such fiscal year. In no event shall the comptroller make any payments from such appropriation prior to May first of such fiscal year, and unless and until the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and

means committee have been notified of the required payments and the timing of such payments to be made from the mobility tax trust account to the metropolitan transportation authority finance fund established by section twelve hundred seventy-h of the public authorities law at least forty-eight hours prior to any such payments. Until such time as payments pursuant to such appropriation are made in full, revenues in the mobility tax trust account shall not be paid over to any person other than the metropolitan transportation authority.

§ 15. This act shall take effect April 1, 2018; provided however, that the amendments to section 399-l of the vehicle and traffic law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided further, however, that the amendments to paragraph (a) of subdivision 3 of section 89-b of the state finance law made by section seven 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 eight of this act shall take effect.

PART L

Section 1. Legislative findings and declaration. It is hereby found and declared that:

Within the metropolitan commuter transportation district created and established by section 1262 of the public authorities law there have been and will be geographic areas that receive special economic and other benefits from capital elements undertaken in connection with a capital program approved pursuant to section 1269-b of the public authorities law.

It is further found and declared that it is a matter of statewide concern that the transportation facilities of the metropolitan transportation authority, the New York city transit authority and their subsidiaries be maintained and expanded to ensure the economic health of the metropolitan commuter transportation district and in furtherance thereof that all of the real property within those subdistricts that are determined to be the beneficiary of such special economic and other benefits should contribute to the funding of the metropolitan transportation authority's capital programs at a level determined to be appropriate to the special benefits received within such subdistrict.

For these reasons it is declared that these changes are necessary to protect and promote the sound enhancement, renewal and expansion of the transportation facilities of the metropolitan transportation authority, the New York city transit authority and their subsidiaries, including the planning, design, acquisition, construction, reconstruction, rehabilitation and improvement of such facilities through the establishment of transportation improvement subdistricts and the use of increases in the fair market value of real property in such subdistricts resulting from such improvements to transportation facilities to provide funding for the metropolitan transportation authority's approved capital programs.

§ 2. Section 1261 of the public authorities law is amended by adding a new subdivision 25 to read as follows:

25. "Transportation improvement subdistrict" shall mean an area within the metropolitan commuter transportation district which area has been established pursuant to section twelve hundred sixty-nine-h of this article and included on the list of transportation improvement subdistricts as provided in article fifteen-D of the real property tax law.

§ 3. The public authorities law is amended by adding a new section 1269-h to read as follows:

§ 1269-h. Transportation improvement subdistricts. 1. The board of the metropolitan transportation authority shall establish a transportation improvement subdistrict pursuant to the procedure set forth in this section including, but not limited to, the projects listed below:

(a) Phases one, two, three and four of the Second Avenue Subway project;

(b) The project to bring the Long Island Rail Road into Grand Central Terminal ("East Side Access Project");

(c) Penn Station Access; and

(d) 125th MNR and subway stations.

2. From time to time, the board of the metropolitan transportation authority may create and establish transportation improvement subdistricts as it deems necessary and appropriate provided that the planned capital program elements in an approved capital program that are expected to result in an increase in the fair market value of real property in such transportation improvement subdistrict have an estimated capital cost greater than one hundred million dollars.

3. Prior to the vote by the board of the metropolitan transportation authority to create and establish a transportation improvement subdistrict, the following shall have occurred:

(a) The legal description of the boundaries of the transportation improvement subdistrict shall have been prepared. A transportation improvement subdistrict may be established anywhere within a city of a population of one million or more that is within the metropolitan commuter transportation district provided that a transportation improvement subdistrict shall include only whole tax parcels, but shall extend no further than one mile in any direction from any part of the transportation improvement.

(b) There shall have been an analysis performed by or on behalf of the authority and submitted to the board of the metropolitan transportation authority that indicates that the aggregate fair market value of the real property within the proposed boundaries of such transportation improvement subdistrict increased or is forecast to increase more than it would have increased if no work performed or anticipated to be performed pursuant to one or more capital program elements had occurred. Such analysis shall identify generally the estimated level of average incremental increase in the fair market value of real property within the proposed transportation improvement subdistrict as a result of the implementation of the specified capital program elements since nineteen hundred eighty-one.

(c) The authority shall conduct a public hearing on the establishment of such proposed transportation improvement subdistrict. Notice of the hearing shall: (i) be written in a clear and coherent manner; (ii) generally identify the boundaries of the proposed transportation improvement subdistrict; (iii) state the percentage of the incremental real property tax levied on all parcels within the proposed transportation improvement subdistrict that the authority proposes to be assessed; (iv) provide the internet address where a detailed map of the boundaries of the proposed transportation improvement subdistrict is publicly accessible, together with a copy of the analysis provided to the board of the metropolitan transportation authority pursuant to paragraph (b) of this subdivision; (v) be sent to the mayor of a city with a population of one million or more in which the proposed transportation improvement subdistrict is located at least thirty days prior to such

public hearing; and (vi) be posted on the authority's website for at least thirty days prior to such public hearing.

(d) After such hearing and at any time prior to the adoption of the resolution recommending establishment of a transportation improvement subdistrict, the authority may amend the boundaries of the recommended transportation improvement subdistrict.

(e) The resolution by which the board of the metropolitan transportation authority shall establish a transportation improvement subdistrict shall include a detailed statement of the reasons why the board considers that the proposed transportation improvement subdistrict has benefitted or will benefit from implementation of the specified capital program elements and shall specify the percentage of the incremental real property tax levied on all parcels within each of the following transportation improvement subdistricts that shall be assessed provided that such percentage may not exceed fifty percent.

(f) Upon approval by the board of the metropolitan transportation authority of a resolution establishing a transportation improvement subdistrict, the authority shall add it to the list of approved transportation improvement subdistricts set forth in article fifteen-D of the real property tax law that it shall maintain on the authority's publicly available website and also shall notify the metropolitan transportation authority capital program review board.

(g) The adoption by the board of the metropolitan transportation authority of a resolution establishing a transportation improvement subdistrict shall not be subject to provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to such article.

§ 4. The real property tax law is amended by adding a new article 15-D to read as follows:

ARTICLE 15-D

TRANSPORTATION IMPROVEMENT DISTRICTS

Section 1596. Definitions.

1597. Levying assessment.

1598. Collection of assessment.

§ 1596. Definitions. As used or referred to in this article, unless a different meaning clearly appears from the context:

1. "Baseline real property tax" shall mean the total real property taxes levied on a parcel last levied prior to the effective date of the resolution of the metropolitan transportation authority establishing the transportation improvement subdistrict in which such parcel is located and shall also include any payments in lieu of taxes made with respect to any such parcel.

2. "Incremental real property tax" shall mean that portion of the real property taxes levied on a parcel each year in excess of the baseline real property tax and shall include any payments in lieu of taxes made with respect to any parcel.

3. "Real property" shall mean "real property" as defined in subdivision twelve of section one hundred two of this chapter.

4. "Parcel" shall mean a "parcel" as defined in subdivision eleven of section one hundred two of this chapter.

5. "Taxing jurisdiction" shall mean a municipal corporation or special district which imposes a charge upon real property located within a city of a population of one million or more.

6. "Transportation improvement subdistrict" shall mean a transportation improvement subdistrict duly approved by the board of the metropolitan transportation authority pursuant to section twelve hundred sixty-

nine-h of the public authorities law and added to the list of such transportation improvement subdistricts maintained by the metropolitan transportation authority.

§ 1597. Levying assessment. 1. For the sole purpose of providing an additional stable and reliable dedicated funding source for the metropolitan transportation authority, the New York city transit authority and their subsidiaries to preserve, operate and improve essential transit and transportation services in the metropolitan commuter transportation district, an assessment equal to not more than seventy-five percent of the incremental real property tax levied on all parcels within each of the following transportation improvement subdistricts shall be levied, commencing, for each parcel in a transportation improvement subdistrict, with the first levy of real property taxes on such parcel occurring on or after the date of calculation of the baseline real property tax for such parcel. For the transportation improvement subdistricts established pursuant to subdivision two of section twelve hundred sixty-nine-h of the public authorities law, such assessment shall commence for each parcel in such subdistrict with the first levy of real property taxes on such parcel on or after the date that the metropolitan transportation authority adopts a resolution establishing such subdistrict. The baseline real property tax that shall be used to determine the amount of such assessment shall be the first levy of real property taxes on any parcel in such subdistrict following the approval of the planning process for such project by the capital program review board.

2. Notwithstanding any law to the contrary, the metropolitan transportation authority shall have no liability to any taxing jurisdiction or to any real property taxpayer for any tax certiorari proceeding or any other judicial or administrative proceeding commenced with respect to any real property tax assessment.

§ 1598. Collection of assessment. 1. Each taxing jurisdiction will timely collect and pay over the assessment to the metropolitan transportation authority in a form and manner prescribed by such authority.

2. In the event that any taxing jurisdiction with responsibility for collecting the transportation improvement subdistrict assessment does not pay such assessments within thirty days of the receipt of such assessment, the metropolitan transportation authority shall notify the state comptroller in writing and such comptroller shall, upon review and determination that an assessment was not paid, deduct any amount not paid from any amount of state aid or any other state payment due to such taxing jurisdiction. The state comptroller shall remit the amounts so deducted and recovered to the metropolitan transportation authority.

§ 5. This act shall take effect immediately.

PART M

Section 1. Legislative intent. Historically, under existing law, and pursuant to its master lease with the New York city transit authority (NYCT), the city of New York is required to pay for the capital needs of the NYCT. This obligation has never ceased from the initial chapter establishing the NYCT and transferring the operation of the city's subway system to the NYCT in 1953. This legislation clarifies this long-standing obligation and establishes a process for state assistance when a disaster emergency is declared.

§ 2. Subdivision 1 of section 1269-b of the public authorities law, as amended by chapter 637 of the laws of 1996, is amended to read as follows:

1. (a) On or before October first, nineteen hundred eighty-one, and on or before October first of every fifth year thereafter, through and including October first, nineteen hundred ninety-one, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five year period commencing January first of the following year;

(b) not later than ten days after the effective date of this paragraph the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first, nineteen hundred ninety-five; and

(c) on or before October first, nineteen hundred ninety-nine and every fifth year thereafter, the authority shall submit to the metropolitan transportation authority capital program review board two capital program plans for the five-year period commencing January first of the following year.

For each of the periods described above, one such plan shall contain the capital program for the transit facilities operated by the New York city transit authority and its subsidiaries and for the Staten Island rapid transit operating authority; the other such plan shall contain the capital program for the railroad facilities, not including the Staten Island rapid transit operating authority, under the jurisdiction of the authority.

Each plan shall set system-wide goals and objectives for capital spending, establish standards for service and operations, and describe each capital element proposed to be initiated in each of the years covered by the plan and explain how each proposed element supports the achievement of the service and operational standards established in the plan. Each plan shall also set forth an estimate of the amount of capital funding required each year and the expected sources of such funding**, except that for such capital funding required each year for transit facilities operated by the New York city transit authority and its subsidiaries, the city of New York shall provide in full all funding required to meet the capital needs of the New York city transit authority in such plan**. Each plan subsequent to the first such plan and each proposed amendment or modification thereof shall also describe the current status of each capital element included in the previously approved plan, if any. Each plan shall be accompanied or supplemented by such supporting materials as the metropolitan transportation authority capital program review board shall require.

A capital element shall mean either a category of expenditure itemized in a plan, as hereinafter provided, for which a specified maximum dollar amount is proposed to be expended, or a particularly described capital project within one or more categories for which no maximum expenditure is proposed, but for which an estimate of expected cost is provided. A capital element shall be deemed to have been initiated for purposes of this section if in connection with such element the authority shall certify that (i) purchase or construction contracts have been entered into, obligating in the aggregate an amount exceeding ten percent of the maximum or estimated cost of the element as set forth in a plan, (ii) financing specific to the project has been undertaken, or (iii) in a case where such element is limited to design or engineering, a contract therefor has been entered into.

§ 3. Section 1269-b of the public authorities law is amended by adding a new subdivision 10 to read as follows:

10. In the case of a disaster emergency declared pursuant to section twenty-eight of the executive law, where such disaster emergency relates

to the continuing failures and the condition of the track, signals and other infrastructure of the transit facilities operated by the New York city transit authority, the state may appropriate revenues it deems necessary and appropriate to fund the capital costs of repairs and construction deemed essential to ensure the continued safe and effective operation of such transit facilities. Upon any such appropriation, the city of New York shall, within sixty days, appropriate an identical sum to provide for capital repairs and construction.

§ 4. This act shall take effect immediately.

PART N

Section 1. Paragraph (a) of subdivision 5 of section 2879 of the public authorities law, as amended by chapter 531 of the laws of 1993, is amended to read as follows:

(a) Each corporation shall notify the commissioner of economic development of the award of a procurement contract for the purchase of goods or services from a foreign business enterprise in an amount equal to or greater than one million dollars simultaneously with notifying the successful bidder therefor. [~~No corporation shall thereafter enter into a procurement contract for said goods or services until at least fifteen days has elapsed, except for procurement contracts awarded on an emergency or critical basis, or where the commissioner of economic development waives the provisions of this sentence.~~] The notification to the commissioner of economic development shall include the name, address and telephone and facsimile number of the foreign business enterprise, a brief description of the goods or services to be obtained pursuant to the proposed procurement contract, the amount of the proposed procurement contract, the term of the proposed procurement contract, and the name of the individual at the foreign business enterprise or acting on behalf of the same who is principally responsible for the proposed procurement contract. Such notification shall be used by the commissioner of economic development solely to provide notification to New York state business enterprises of opportunities to participate as subcontractors and suppliers on such procurement contracts, to promote and encourage the location and development of new business in the state, to assist New York state business enterprises in obtaining offset credits from foreign countries, and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of New York state business enterprises, industry and commerce.

§ 2. Subdivision 7 of section 1209 of the public authorities law, as amended by section 1 of part OO of chapter 54 of the laws of 2016, is amended to read as follows:

7. (a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of one [~~hundred thousand~~] million dollars and all contracts for public work involving an estimated expenditure in excess of one [~~hundred thousand~~] million dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. The aforesaid shall not apply to contracts for personal, architectural, engineering or other professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such

bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

(b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that (i) a contract for services in the actual or estimated amount of less than one [~~hundred thousand~~] million dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount of one [~~hundred thousand~~] million dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-B of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-A of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed four hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

§ 3. Subparagraph (i) of paragraph (f) and subparagraph (i) of paragraph (g) of subdivision 9 of section 1209 of the public authorities law, as amended by section 3 of part OO of chapter 54 of the laws of 2016, are amended to read as follows:

(i) Except for a contract with a value of one [~~hundred~~] million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one [~~hundred~~] million dollars or less.

(i) Except for a contract with a value of one [~~hundred~~] million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than two-thirds of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing

the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one [~~hundred~~] million dollars or less.

§ 4. Paragraphs (a) and (b) of subdivision 2 of section 1265-a of the public authorities law, as amended by section 8 of part OO of chapter 54 of the laws of 2016, are amended to read as follows:

(a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of one [~~hundred thousand~~] million dollars and all contracts for public work involving an estimated expenditure in excess of one [~~hundred thousand~~] million dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. For purposes hereof, contracts for public work shall exclude contracts for personal, engineering and architectural, or professional services. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. Nothing herein shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

(b) Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided (i) that a contract for services in the actual or estimated amount of less than one [~~hundred thousand~~] million dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount of one [~~hundred thousand~~] million dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids, and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article seventeen-B of the executive law, or minority or women-owned business enterprises certified pursuant to article fifteen-A of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed four hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

§ 5. Subparagraph (i) of paragraph (f) and subparagraph (i) of paragraph (g) of subdivision 4 of section 1265-a of the public authorities

law, as amended by section 9 of part OO of chapter 54 of the laws of 2016, are amended to read as follows:

(i) Except for a contract with a value of one [~~hundred~~] million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one [~~hundred~~] million dollars or less.

(i) Except for a contract with a value of one [~~hundred~~] million dollars or less that is awarded pursuant to this paragraph to the proposer whose proposal is the lowest cost, the authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than a two-thirds vote of its members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made provided however that for purposes of this subparagraph the board may, at its discretion, require such a resolution be approved for contracts with a value of one [~~hundred~~] million dollars or less.

§ 6. Subdivision 22 of section 553 of the public authorities law, as added by section 12 of part OO of chapter 54 of the laws of 2016, is amended to read as follows:

22. Section twenty-eight hundred seventy-nine of this chapter shall apply to the authority's acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars or more, provided that (i) a contract for services in the actual or estimated amount of less than one [~~hundred thousand~~] **million** dollars shall not require approval by the board of the authority regardless of the length of the period over which the services are rendered, and provided further that a contract for services in the actual or estimated amount of one [~~hundred thousand~~] **million** dollars or more shall require approval by the board of the authority regardless of the length of the period over which the services are rendered unless such a contract is awarded to the lowest responsible bidder after obtaining sealed bids and (ii) the board of the authority may by resolution adopt guidelines that authorize the award of contracts to small business concerns, to service disabled veteran owned businesses certified pursuant to article [~~seventeen-b~~] **seventeen-B** of the executive law, or minority or women-owned business enterprises certified pursuant to article [~~fifteen-a~~] **fifteen-A** of the executive law, or purchases of goods or technology that are recycled or remanufactured, in an amount not to exceed four hundred thousand dollars without a formal competitive process and without further board approval. The board of the authority shall adopt guidelines which shall be made publicly available for the awarding of such contract without a formal competitive process.

§ 7. Section 1266 of the public authorities law is amended by adding a new subdivision 19 to read as follows:

19. The board of the authority shall be authorized to terminate, modify or amend any service or funding agreement approved prior to the effective date of this subdivision that does not include a defined duration term, or contains an initial term that explicitly or in effect has a duration longer than twenty years.

§ 8. This act shall take effect April 1, 2018; provided that the amendments to subdivisions 7 and 9 of section 1209, subdivisions 2 and 4 of section 1265-a, and subdivision 22 of section 553 of the public authorities law made by sections two, three, four, five and six of this act shall be subject to the expiration and reversion or repeal of such provisions pursuant to section 15 of part OO of chapter 54 of the laws of 2016, as amended, and shall expire and be deemed repealed therewith.

PART O

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part M of chapter 58 of the laws of 2017, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2018~~] **2019**.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2018.

PART P

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part N of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2018~~] **2019**, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018.

PART Q

Section 1. Subdivisions 2, 7, 8, 13, 14, 15, 16, 19, 20, 21 and 22 of section 310 of the executive law, subdivisions 2, 8 and 14 as added by chapter 261 of the laws of 1988, subdivisions 7 and 15 as amended by chapter 22 of the laws of 2014, subdivision 13 as amended by chapter 506 of the laws of 2009, subdivision 16, as amended by section 3 of part BB of chapter 59 of the laws of 2006, subdivisions 19, 20, 21 and 22 as added by chapter 175 of the laws of 2010 are amended and a new subdivision 24 is added to read as follows:

2. "Contracting agency" shall mean a state agency **or state-funded entity** which is a party or a proposed party to a state contract or, in the case of a state contract described in paragraph (c) of subdivision

thirteen of this section, shall mean the New York state housing finance agency, housing trust fund corporation or affordable housing corporation, whichever has made or proposes to make the grant or loan for the state assisted housing project.

7. "Minority-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more minority group members;

(b) an enterprise in which such minority ownership is real, substantial and continuing;

(c) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, **or such other amount as the director shall set forth in regulations,** as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

8. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America.

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

13. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of [~~twenty-five~~] **fifty** thousand dollars, whereby a contracting agency is committed to expend or does expend **or grant** funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; (b) a written agreement in excess of [~~one~~] **two** hundred thousand dollars whereby a contracting agency is committed to expend or does expend **or grant** funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; [~~and~~] (c) a written agreement in excess of [~~one~~] **two** hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project**; and (d) a written agreement or purchase order instrument, providing for a total expenditure in excess of fifty thousand dollars, whereby a state-funded entity is committed to expend or does expend funds paid to the state-**

funded entity by the state of New York, including those paid to the state-funded entity pursuant to an appropriation, for any product or service.

14. "Subcontract" shall mean an agreement [~~providing for a total expenditure in excess of twenty-five thousand dollars for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon~~] between a contractor and any individual or business enterprise, including a sole proprietorship, partnership, corporation, or not-for-profit corporation, in which a portion of a contractor's obligation under a state contract is undertaken or assumed, but shall not include any construction, demolition, replacement, major repair, renovation, planning or design of real property or improvements thereon for the beneficial use of the contractor.

15. "Women-owned business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(a) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;

(b) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(c) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(d) an enterprise authorized to do business in this state and independently owned and operated;

(e) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, **or such other amount as the director shall set forth in regulations,** as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and

(f) an enterprise that is a small business pursuant to subdivision twenty of this section.

A firm owned by a minority group member who is also a woman may be certified as a minority-owned business enterprise, a women-owned business enterprise, or both, and may be counted towards either a minority-owned business enterprise goal or a women-owned business enterprise goal, in regard to any contract or any goal, set by an agency or authority, but such participation may not be counted towards both such goals. Such an enterprise's participation in a contract may not be divided between the minority-owned business enterprise goal and the women-owned business enterprise goal.

16. "Statewide advocate" shall mean the person appointed by the [~~commissioner~~] **director** to serve in the capacity of the minority and women-owned business enterprise statewide advocate.

19. "Personal net worth" shall mean the aggregate adjusted net value of the assets of an individual remaining after total liabilities are deducted. Personal net worth includes the individual's share of assets held jointly with said individual's spouse and does not include the individual's ownership interest in the certified minority and women-owned business enterprise, the individual's [~~equity in his or her primary residence~~] **ownership interest in any holding company that leases real property, machinery, equipment, or vehicles exclusively to the certified minority or women-owned business enterprise, up to two hundred percent of the median value of owner-occupied housing units in the municipality**

in which the individual resides, or up to five hundred thousand dollars of the present cash value of any qualified retirement savings plan or individual retirement account held by the individual less any penalties for early withdrawal.

20. "Small business" as used in this section, unless otherwise indicated, shall mean a business which has a significant business presence in the state, is independently owned and operated, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director[~~, but not to exceed three hundred~~], taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto. The director may issue regulations on the construction of the terms in this definition.

21. "The [~~2010~~] disparity study" shall refer to the most recent disparity study commissioned by the [~~empire state development corporation~~] department of economic development, pursuant to section three hundred twelve-a of this article[~~, and published on April twenty-nine, two thousand ten~~].

22. "Diversity practices" shall mean the contractor's practices and policies with respect to:

(a) [~~utilizing~~] mentoring certified minority and women-owned business enterprises in contracts awarded by a state agency or other public corporation, as subcontractors and suppliers; [~~and~~]

(b) entering into partnerships, joint ventures or other similar arrangements with certified minority and women-owned business enterprises as defined in this article or other applicable statute or regulation governing an entity's utilization of minority or women-owned business enterprises; and

(c) the representation of minority group members and women as members of the board of directors or executive officers of the contractor.

24. "State-funded entity" shall mean any unit of local government, including, but not limited to, a county, city, town, village, or school district that is paid pursuant to an appropriation in any state fiscal year.

§ 2. Subdivision 4 of section 311 of the executive law, as amended by chapter 361 of the laws of 2009, is amended to read as follows:

4. The director [~~may~~] shall provide assistance to, and facilitate access to programs serving [~~certified businesses as well as applicants~~] minority and women-owned business enterprises to ensure that such businesses benefit, as needed, from technical, managerial and financial, and general business assistance; training; marketing; organization and personnel skill development; project management assistance; technology assistance; bond and insurance education assistance; and other business development assistance. The director shall maintain a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process. In addition, the director may, either independently or in conjunction with other state agencies:

(a) develop a clearinghouse of information on programs and services provided by entities that may assist such businesses;

(b) review bonding and paperwork requirements imposed by contracting agencies that may unnecessarily impede the ability of such businesses to compete; and

(c) seek to maximize utilization by minority and women-owned business enterprises of available federal resources including but not limited to federal grants, loans, loan guarantees, surety bonding guarantees, tech-

nical assistance, and programs and services of the federal small business administration.

§ 3. Section 311-a of the executive law, as added by section 4 of part BB of chapter 59 of the laws of 2006, is amended to read as follows:

§ 311-a. Minority and women-owned business enterprise statewide advocate. 1. There is hereby established within the [~~department of economic~~] division of minority and women's business development [~~an office of the minority and women-owned business enterprise~~] a statewide advocate. The statewide advocate shall be appointed by the [~~commissioner with the advice of the small business advisory board as established in section one hundred thirty-three of the economic development law and shall serve in the unclassified service of the~~] director. [~~The statewide advocate shall be located in the Albany empire state development office.~~]

2. The advocate shall act as a liaison for minority and women-owned business enterprises (MWBEs) to assist them in obtaining technical, managerial, financial and other business assistance for certified businesses and applicants. The advocate shall receive and investigate complaints brought by or on behalf of MWBEs concerning [~~certification delays and instances of~~] violations of [~~law~~] the requirements of this article by contractors and state agencies. [~~The statewide advocate shall assist certified businesses and applicants in the certification process. Other functions of the statewide advocate shall be directed by the commissioner. The advocate may request and the director may appoint staff and employees of the division of minority and women business development to support the administration of the office of the statewide advocate.~~]

3. The statewide advocate [~~shall establish a toll-free number at the department of economic development to be used to answer questions concerning the MWBE certification process~~] shall conduct periodic audits of state agencies' compliance with the requirements of section three hundred fifteen of this article, which audits shall include a review of the books and records of state agencies concerning, among other things, annual agency expenditures, annual participation of minority and women-owned business enterprises as prime contractors and subcontractors in state agencies' state contracts, and documentation of state agencies' good faith efforts to maximize minority and women-owned business enterprise participation in such state agencies' contracting.

[~~4. The statewide advocate shall report to the director and commissioner by November fifteenth on an annual basis on all activities related to fulfilling the obligations of the office of the statewide advocate. The commissioner shall include the unedited text of the statewide advocate's report within the reports submitted by the department of economic development to the governor and the legislature.~~]

§ 4. Section 312-a of the executive law, as amended by section 1 of part Q of chapter 58 of the laws of 2015, is amended to read as follows:

§ 312-a. Study of minority and women-owned business [~~enterprise programs~~] enterprises. 1. The director of the division of minority and [~~women-owned~~] women's business development [~~in the department of economic development~~] is authorized and directed to recommission a statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts since the amendment of this article to be delivered to the governor and legislature [~~no later than August fifteenth, two thousand sixteen~~]. The study shall be prepared by an entity independent of the department and selected through a request for proposal process. The purpose of such study is:

(a) to determine whether there is a disparity between the number of qualified minority and women-owned businesses ready, willing and able to perform state contracts for commodities, services and construction, and the number of such contractors actually engaged to perform such contracts, and to determine what changes, if any, should be made to state policies affecting minority and women-owned business enterprises; and (b) to determine whether there is a disparity between the number of qualified minorities and women ready, willing and able, with respect to labor markets, qualifications and other relevant factors, to participate in contractor employment, management level bodies, including boards of directors, and as senior executive officers within contracting entities and the number of such group members actually employed or affiliated with state contractors in the aforementioned capacities, and to determine what changes, if any, should be made to state policies affecting minority and women group populations with regard to state contractors' employment and appointment practices relative to diverse group members. Such study shall include, but not be limited to, an analysis of the history of minority and women-owned business enterprise programs and their effectiveness as a means of securing and ensuring participation by minorities and women, and a disparity analysis by market area and region of the state. Such study shall distinguish between minority males, minority females and non-minority females in the statistical analysis.

2. The director of the division of minority and [~~women-owned~~] **women's** business development is directed to transmit the disparity study to the governor and the legislature [~~not later than August fifteenth, two thousand sixteen~~], and to post the study on the website of the department of economic development.

§ 5. Section 313 of the executive law, as amended by chapter 175 of the laws of 2010, is amended to read as follows:

§ 313. Opportunities for minority and women-owned business enterprises. 1. [~~Goals and requirements for agencies and contractors. Each agency shall structure procurement procedures for contracts made directly or indirectly to minority and women-owned business enterprises, in accordance with the findings of the two thousand ten disparity study, consistent with the purposes of this article, to attempt to achieve the following results with regard to total annual statewide procurement:~~

~~(a) construction industry for certified minority-owned business enterprises: fourteen and thirty-four hundredths percent;~~

~~(b) construction industry for certified women-owned business enterprises: eight and forty-one hundredths percent;~~

~~(c) construction related professional services industry for certified minority-owned business enterprises: thirteen and twenty-one hundredths percent;~~

~~(d) construction related professional services industry for certified women-owned business enterprises: eleven and thirty-two hundredths percent;~~

~~(e) non-construction related services industry for certified minority-owned business enterprises: nineteen and sixty hundredths percent;~~

~~(f) non-construction related services industry for certified women-owned business enterprises: seventeen and forty-four hundredths percent;~~

~~(g) commodities industry for certified minority-owned business enterprises: sixteen and eleven hundredths percent;~~

~~(h) commodities industry for certified women-owned business enterprises: ten and ninety-three hundredths percent;~~

~~(i) overall agency total dollar value of procurement for certified minority-owned business enterprises: sixteen and fifty-three hundredths percent;~~

~~(j) overall agency total dollar value of procurement for certified women-owned business enterprises: twelve and thirty-nine hundredths percent; and~~

~~(k) overall agency total dollar value of procurement for certified minority, women-owned business enterprises: twenty-eight and ninety-two hundredths percent.~~

~~1-a. The director shall ensure that each state agency has been provided with a copy of the two thousand ten disparity study.~~

~~1-b. Each agency shall develop and adopt agency-specific goals based on the findings of the two thousand ten disparity study.~~

~~2.~~] The director shall promulgate rules and regulations [~~pursuant to the goals established in subdivision one of this section~~] that provide measures and procedures to ensure that certified minority and women-owned businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the agency's identification of those state contracts for which minority and women-owned certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts [~~so as to facilitate the agency's achievement of the maximum feasible portion of the goals for state contracts to such businesses~~].

[~~2-a.~~] 2. The director shall promulgate rules and regulations that will accomplish the following:

(a) provide for the certification and decertification of minority and women-owned business enterprises for all agencies through a single process that meets applicable requirements;

(b) require that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

(i) the potential subcontract opportunities available in the prime procurement contract; [~~and~~]

(ii) the availability[~~, as contained within the study,~~] of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities, as reflected in the division's directory of certified minority and women-owned business enterprises; and

(iii) the findings of the disparity study.

(c) [~~require that each agency provide a current list of certified minority business enterprises to each prospective contractor;~~

~~(d)~~] allow a contractor that is a certified minority-owned or women-owned business enterprise to use the work it performs to meet requirements for use of certified minority-owned or women-owned business enterprises as subcontractors;

(d) establish criteria for agencies to credit the participation of minority and women-owned business enterprises towards the achievement of the minority and women-owned business enterprise participation goals on a state contract based on the commercially useful function provided by each minority and women-owned business enterprise on the contract;

(e) provide for joint ventures, which a bidder may count toward meeting its minority and women-owned business enterprise participation;

(f) consistent with subdivision six of this section, provide for circumstances under which an agency or state-funded entity may waive

obligations of the contractor relating to minority and women-owned business enterprise participation;

(g) require that an agency **or state-funded entity** verify that minority and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(h) provide for the collection of statistical data by each agency concerning actual minority and women-owned business enterprise participation; [~~and~~]

(i) require each agency to consult the most current disparity study when calculating [~~agency-wide and contract specific~~] **contract-specific** participation goals pursuant to this article**; and**

(j) provide for the periodic collection of reports from state-funded entities in such form and at such time as the director shall require.

3. Solely for the purpose of providing the opportunity for meaningful participation by certified businesses in the performance of state contracts as provided in this section, state contracts shall include leases of real property by a state agency to a lessee where: the terms of such leases provide for the construction, demolition, replacement, major repair or renovation of real property and improvements thereon by such lessee; and the cost of such construction, demolition, replacement, major repair or renovation of real property and improvements thereon shall exceed the sum of [~~one~~] **two** hundred thousand dollars. Reports to the director pursuant to section three hundred fifteen of this article shall include activities with respect to all such state contracts. Contracting agencies shall include or require to be included with respect to state contracts for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon, such provisions as may be necessary to effectuate the provisions of this section in every bid specification and state contract, including, but not limited to: (a) provisions requiring contractors to make a good faith effort to solicit active participation by enterprises identified in the directory of certified businesses [~~provided to the contracting agency by the office~~]; (b) requiring the parties to agree as a condition of entering into such contract, to be bound by the provisions of section three hundred sixteen of this article; and (c) requiring the contractor to include the provisions set forth in paragraphs (a) and (b) of this subdivision in every subcontract in a manner that the provisions will be binding upon each subcontractor as to work in connection with such contract. Provided, however, that no such provisions shall be binding upon contractors or subcontractors in the performance of work or the provision of services that are unrelated, separate or distinct from the state contract as expressed by its terms, and nothing in this section shall authorize the director or any contracting agency to impose any requirement on a contractor or subcontractor except with respect to a state contract.

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific [~~availability of certified businesses~~] **disparities in the utilization of minority and women-owned businesses relative to their availability**;

(b) implement a program that will enable the agency to evaluate each contract to determine the [~~appropriateness of the~~] **appropriate** goal [~~pursuant to subdivision one of this section~~] **for participation by minority-owned business enterprises and women-owned business enterprises**;

(c) consider where practicable, the severability of construction projects and other bundled contracts; and

(d) consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

5. (a) Contracting agencies shall administer the rules and regulations promulgated by the director in a good faith effort to [~~meet~~] achieve the maximum feasible [~~portion of the agency's goals adopted~~] participation of minority and women-owned business enterprises pursuant to this article and the regulations of the director. Such rules and regulations: shall require a contractor to submit a utilization plan after bids are opened, when bids are required, but prior to the award of a state contract; shall require the contracting agency to review the utilization plan submitted by the contractor [~~and to post the utilization plan and any waivers of compliance issued pursuant to subdivision six of this section on the website of the contracting agency~~] within a reasonable period of time as established by the director; shall require the contracting agency to notify the contractor in writing within a period of time specified by the director as to any deficiencies contained in the contractor's utilization plan; shall require remedy thereof within a period of time specified by the director; shall require the contractor to submit periodic compliance reports relating to the operation and implementation of any utilization plan; shall not allow any automatic waivers but shall allow a contractor to apply for a partial or total waiver of the minority and women-owned business enterprise participation requirements pursuant to subdivisions six and seven of this section; shall allow a contractor to file a complaint with the director pursuant to subdivision eight of this section in the event a contracting agency has failed or refused to issue a waiver of the minority and women-owned business enterprise participation requirements or has denied such request for a waiver; and shall allow a contracting agency to file a complaint with the director pursuant to subdivision nine of this section in the event a contractor is failing or has failed to comply with the minority and women-owned business enterprise participation requirements set forth in the state contract where no waiver has been granted.

(b) The rules and regulations promulgated pursuant to this subdivision regarding a utilization plan shall provide that where enterprises have been identified within a utilization plan, a contractor shall attempt, in good faith, to utilize such enterprise at least to the extent indicated. A contracting agency may require a contractor to indicate, within a utilization plan, what measures and procedures he or she intends to take to comply with the provisions of this article, but may not require, as a condition of award of, or compliance with, a contract that a contractor utilize a particular enterprise in performance of the contract.

(c) Without limiting other grounds for the disqualification of bids or proposals on the basis of non-responsibility, a contracting agency may disqualify the bid or proposal of a contractor as being non-responsible for failure to remedy notified deficiencies contained in the contractor's utilization plan within a period of time specified in regulations promulgated by the director after receiving notification of such defi-

ciencies from the contracting agency. Where failure to remedy any notified deficiency in the utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting agency. Where the contracting agency states that a failure to remedy any notified deficiency in the utilization plan is a ground for disqualification the contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting agency. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

6. Where it appears that a contractor cannot, after a good faith effort, comply with the minority and women-owned business enterprise participation requirements set forth in a particular state contract, a contractor may file a written application with the contracting agency requesting a partial or total waiver of such requirements setting forth the reasons for such contractor's inability to meet any or all of the participation requirements together with an explanation of the efforts undertaken by the contractor to obtain the required minority and women-owned business enterprise participation. In implementing the provisions of this section, the contracting agency shall consider the number and types of minority and women-owned business enterprises [~~**located**~~] **available to provide goods or services required under the contract** in the region in which the state contract is to be performed, the total dollar value of the state contract, the scope of work to be performed and the project size and term. If, based on such considerations, the contracting agency determines there is not a reasonable availability of contractors on the list of certified business to furnish services for the project, it shall issue a waiver of compliance to the contractor. In making such determination, the contracting agency shall first consider the availability of other business enterprises located in the region and shall thereafter consider the financial ability of minority and women-owned businesses located outside the region in which the contract is to be performed to perform the state contract.

7. For purposes of determining a contractor's good faith effort to comply with the requirements of this section or to be entitled to a waiver therefrom the contracting agency shall consider:

(a) whether the contractor has [~~**advertised in general circulation media, trade association publications, and minority-focus and women-focus media and, in such event, (i) whether or not certified minority or women-owned businesses which have been solicited by the contractor exhibited interest in submitting proposals for a particular project by attending**~~] **attended** a pre-bid conference**, if any, scheduled by the state agency awarding the state contract with certified minority and women-owned business enterprises**; and

[~~(ii) whether certified businesses which have been solicited by the contractor have responded in a timely fashion to the contractor's solicitations for timely competitive bid quotations prior to the contracting agency's bid date; and~~]

(b) whether [~~there has been~~] **the contractor provided timely** written notification **of subcontracting opportunities on the state contract** to appropriate certified businesses that appear in the directory of certified businesses prepared pursuant to paragraph (f) of subdivision three of section three hundred eleven of this article; and

(c) whether the contractor can reasonably structure the amount of work to be performed under subcontracts in order to increase the likelihood of participation by certified businesses.

8. In the event that a contracting agency fails or refuses to issue a waiver to a contractor as requested within twenty days after having made application therefor pursuant to subdivision six of this section or if the contracting agency denies such application, in whole or in part, the contractor may file a complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contractor's complaint together with a demand for relief. The contractor shall serve a copy of such complaint upon the contracting agency by personal service or by certified mail, return receipt requested. The contracting agency shall be afforded an opportunity to respond to such complaint in writing.

9. If, after the review of a contractor's minority and women owned business utilization plan or review of a periodic compliance report and after such contractor has been afforded an opportunity to respond to a notice of deficiency issued by the contracting agency in connection therewith, it appears that a contractor is failing or refusing to comply with the minority and women-owned business participation requirements as set forth in the state contract and where no waiver from such requirements has been granted, the contracting agency may file a written complaint with the director pursuant to section three hundred sixteen of this article setting forth the facts and circumstances giving rise to the contracting agency's complaint together with a demand for relief. The contracting agency shall serve a copy of such complaint upon the contractor by personal service or by certified mail, return receipt requested. The contractor shall be afforded an opportunity to respond to such complaint in writing.

§ 6. Section 314 of the executive law, as added by chapter 261 of the laws of 1988, subdivision 2-a as amended by chapter 175 of the laws of 2010, subdivision 4 as amended and subdivision 5 as added by chapter 399 of the laws of 2014, is amended to read as follows:

§ 314. Statewide certification program. 1. The director shall promulgate rules and regulations providing for the establishment of a statewide certification program including rules and regulations governing the approval, denial or revocation of any such certification. **Such rules shall set forth the maximum personal net worth of a minority group member or woman who may be relied upon to certify a business as a minority-owned business enterprise or women-owned business enterprise, and may establish different maximum levels of personal net worth for minority group members and women on an industry-by-industry basis for such industries as the director shall determine.** Such rules and regulations shall include, but not be limited to, such matters as may be required to ensure that the established procedures thereunder shall at least be in compliance with the code of fair procedure set forth in section seventy-three of the civil rights law.

2. For the purposes of this article, the office shall be responsible for verifying businesses as being owned, operated, and controlled by minority group members or women and for certifying such verified businesses. The director shall prepare a directory of certified businesses for use by contracting agencies and contractors in carrying out the provisions of this article. The director shall periodically update the directory.

2-a. (a) The director shall establish a procedure enabling the office to accept New York municipal corporation certification verification for minority and women-owned business enterprise applicants in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of municipal corporation certification. All eligible municipal corporation certifications shall require business enterprises seeking certification to meet the following standards:

(i) have at least fifty-one percent ownership by a minority or a women-owned enterprise and be owned by United States citizens or permanent resident aliens;

(ii) be an enterprise in which the minority and/or women-ownership interest is real, substantial and continuing;

(iii) be an enterprise in which the minority and/or women-ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) be an enterprise authorized to do business in this state;

(v) be subject to a physical site inspection to verify the fifty-one percent ownership requirement;

(vi) be owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a personal net worth that does not exceed three million five hundred thousand dollars, **or such other amount as the director shall set forth in regulations,** as adjusted annually for inflation according to the consumer price index; and

(vii) be an enterprise that is a small business pursuant to subdivision twenty of section three hundred ten of this article.

(b) The director shall work with all municipal corporations that have a municipal minority and women-owned business enterprise program to develop standards to accept state certification to meet the municipal corporation minority and women-owned business enterprise certification standards.

(c) The director shall establish a procedure enabling the division to accept federal certification verification for minority and women-owned business enterprise applicants, provided said standards comport with those required by the state minority and women-owned business program, in lieu of requiring the applicant to complete the state certification process. The director shall promulgate rules and regulations to set forth criteria for the acceptance of federal certification.

2-b. Each business applying for minority or women-owned business enterprise certification pursuant to this section must agree to allow: (i) the department of taxation and finance to share its tax information with the division and (ii) the department of labor to share its tax and employer information with the division.

3. Following application for certification pursuant to this section, the director shall provide the applicant with written notice of the status of the application, including notice of any outstanding deficiencies[~~, within thirty days~~]. Within [~~sixty~~] **thirty** days of submission of a final completed application, the director shall provide the applicant

with written notice of a determination by the office approving or denying such certification and, in the event of a denial a statement setting forth the reasons for such denial. Upon a determination denying or revoking certification, the business enterprise for which certification has been so denied or revoked shall, upon written request made within thirty days from receipt of notice of such determination, be entitled to a hearing before an independent hearing officer designated for such purpose by the director. In the event that a request for a hearing is not made within such thirty day period, such determination shall be deemed to be final. The independent hearing officer shall conduct a hearing and upon the conclusion of such hearing, issue a written recommendation to the director to affirm, reverse or modify such determination of the director. Such written recommendation shall be issued to the parties. The director, within thirty days, by order, must accept, reject or modify such recommendation of the hearing officer and set forth in writing the reasons therefor. The director shall serve a copy of such order and reasons therefor upon the business enterprise by personal service or by certified mail return receipt requested. The order of the director shall be subject to review pursuant to article seventy-eight of the civil practice law and rules.

4. The director may, after performing an availability analysis and upon a finding that industry-specific factors coupled with personal net worth or small business eligibility requirements pursuant to subdivisions nineteen and twenty of section three hundred ten of this article, respectively, have led to the significant exclusion of businesses owned by minority group members or women in that industry, grant provisional MWBE certification status to applicants from that designated industry, provided, however, that all other eligibility requirements pursuant to subdivision seven or fifteen of section three hundred ten of this article, as applicable, are satisfied. Any industry-based determination made under this section by the director shall be made widely available to the public and posted on the division's website.

5. With the exception of provisional MWBE certification, as provided for in subdivision twenty-three of section three hundred ten of this article, all **minority and women-owned business enterprise** certifications shall be valid for a period of three years.

§ 7. Subdivisions 2, 3, 4, 5, 6 and 7 of section 315 of the executive law, subdivision 2 as added by chapter 261 of the laws of 1988, and subdivision 3 as amended and subdivisions 4, 5, 6 and 7 as added by chapter 175 of the laws of 2010, are amended to read as follows:

2. [~~**Each contracting agency shall provide to prospective bidders a current copy of the directory of certified businesses, and a copy of the regulations required pursuant to sections three hundred twelve and three hundred thirteen of this article at the time bids or proposals are solicited.**~~

~~**3.**~~] Each contracting agency shall report to the director with respect to activities undertaken to promote employment of minority group members and women and promote and increase participation by certified businesses with respect to state contracts and subcontracts. Such reports shall be submitted periodically, but not less frequently than annually, as required by the director, and shall include such information as is necessary for the director to determine whether the contracting agency and contractor have complied with the purposes of this article, including, without limitation, a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the contracting agency during the period covered by

the report, [~~including a description of the basis of the waiver request and the rationale for granting any such waiver~~] any instances in which the state agency has deemed a contractor to have committed a violation pursuant to section three hundred sixteen-a of this article, and such other information as the director shall require. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

[~~4.~~] 3. The division of minority and women's business development shall issue an annual report which: (a) summarizes the report submitted by each contracting agency pursuant to subdivision [~~three~~] two of this section; (b) contains such comparative or other information as the director deems appropriate, including but not limited to goals compared to actual participation of minority and women-owned business enterprises in state contracting, to evaluate the effectiveness of the activities undertaken by each such contracting agency to promote increased participation by certified minority or women-owned businesses with respect to state contracts and subcontracts; (c) contains a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by each contracting agency during the period covered by the report[~~, including a description of the basis of the waiver request and the contracting agency's rationale for granting any such waiver~~]; and (d) [~~describes any efforts to create a database or other information storage and retrieval system containing information relevant to contracting with minority and women-owned business enterprises; and (e)~~] contains a summary of (i) all determinations of violations of this article by a contractor or a contracting agency made during the period covered by the annual report pursuant to section three hundred sixteen-a of this article and

(ii) the penalties or sanctions, if any, assessed in connection with such determinations and the rationale for such penalties or sanctions. Copies of the annual report shall be provided to the commissioner, the governor, the comptroller, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and shall also be made widely available to the public via, among other things, publication on a website maintained by the division of minority and women's business development.

[~~5.~~] 4. Each agency shall include in its annual report to the governor and legislature pursuant to section one hundred sixty-four of [~~the executive law~~] this chapter its annual goals for contracts with minority-owned and women-owned business enterprises, the number of actual contracts issued to minority-owned and women-owned business enterprises; and a summary of all waivers of the requirements of subdivisions six and seven of section three hundred thirteen of this article allowed by the reporting agency during the preceding year, including a description of the basis of the waiver request and the rationale for granting such waiver. Each agency shall also include in such annual report whether or not it has been required to prepare a remedial plan, and, if so, the plan and the extent to which the agency has complied with each element of the plan.

[~~6.~~] 5. Each contracting agency that substantially fails to [~~meet the goals supported by the disparity study~~] make a good faith effort, as defined by regulation of the director, to achieve the maximum feasible participation of minority and women-owned business enterprises in such agency's contracting shall be required to submit to the director a remedial action plan to remedy such failure.

[~~7.~~] 6. If it is determined by the director that any agency has failed to act in good faith to implement the remedial action plan, pursuant to subdivision [~~six~~] five of this section within one year, the director shall provide written notice of such a finding, which shall be publicly available, and direct implementation of remedial actions to:

(a) assure that sufficient and effective solicitation efforts to women and minority-owned business enterprises are being made by said agency;

(b) divide contract requirements, when economically feasible, into quantities that will expand the participation of women and minority-owned business enterprises;

(c) eliminate extended experience or capitalization requirements, when programmatically and economically feasible, that will expand participation by women and minority-owned business enterprises;

(d) identify specific proposed contracts as particularly attractive or appropriate for participation by women and minority-owned business enterprises with such identification to result from and be coupled with the efforts of paragraphs (a), (b), and (c) of this subdivision; and

(e) upon a finding by the director that an agency has failed to take affirmative measures to implement the remedial plan and to follow any of the remedial actions set forth by the director, and in the absence of any objective progress towards the agency's goals, require some or all of the agency's procurement, for a specified period of time, be placed under the direction and control of another agency or agencies.

§ 8. Section 316-a of the executive law, as added by chapter 175 of the laws of 2010, is amended to read as follows:

§ 316-a. Prohibitions in contracts; violations. Every contracting agency shall include a provision in its state contracts expressly providing that any contractor who [~~willfully and intentionally~~] fails to make a good faith effort to comply with the minority and women-owned participation requirements of this article as set forth in such state contract shall be liable to the contracting agency for liquidated or other appropriate damages and shall provide for other appropriate remedies on account of such breach. A contracting agency that elects to proceed against a contractor for breach of contract as provided in this section shall be precluded from seeking enforcement pursuant to section three hundred sixteen of this article; provided however, that the contracting agency shall include a summary of all enforcement actions undertaken pursuant to this section in its annual report submitted pursuant to [~~subdivision three of~~] section three hundred fifteen of this article.

§ 9. Subdivision 6 of section 163 of the state finance law, as amended by chapter 569 of the laws of 2015, is amended to read as follows:

6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding eighty-five thousand dollars without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns or those certified pursuant to articles fifteen-A and seventeen-B of the executive law, or commodities or technology that are recycled or remanufactured, or commodities that are food, including milk and milk products, grown, produced or harvested in New York state in an amount not exceeding [~~two~~] four hundred thousand dollars without a formal competitive process.

§ 10. Subparagraph (i) of paragraph (b) of subdivision 3 of section 2879 of the public authorities law, as amended by chapter 174 of the laws of 2010, is amended to read as follows:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from small business concerns or those certified as minority or women-owned business enterprises, or goods or technology that are recycled or remanufactured, in an amount not to exceed [~~two~~] four hundred thousand dollars without a formal competitive process;

§ 11. Paragraph a of subdivision 3 of section 139-j of the state finance law is amended by adding two new subparagraphs 10 and 11 to read as follows:

(10) Complaints by minority-owned business enterprises or women-owned business enterprises, certified as such by the division of minority and women's business development, to the minority and women-owned business enterprise statewide advocate concerning the procuring governmental entity's failure to comply with the requirements of section three hundred fifteen of the executive law;

(11) Communications between the minority and women-owned business enterprise statewide advocate and the procuring governmental entity in furtherance of an investigation of the minority and women-owned business enterprise statewide advocate pursuant to section three hundred twelve-a of the executive law;

§ 12. Subdivision 6 of section 8 of the public buildings law, as amended by chapter 840 of the laws of 1980, is amended to read as follows:

6. All contracts for amounts in excess of five thousand dollars for the work of construction, reconstruction, alteration, repair or improvement of any state building, whether constructed or to be constructed must be offered for public bidding and may be awarded to the lowest responsible and reliable bidder, as will best promote the public interest, by the said department or other agency with the approval of the comptroller for the whole or any part of the work to be performed, and, in the discretion of the said department or other agency, such contracts may be sublet; provided, however, that no such contract shall be awarded to a bidder other than the lowest responsible and reliable bidder, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, without the written approval of the comptroller. When a proposal consists of unit prices of items specified to be performed, the lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, except for certain contracts awarded to minority or women-owned business enterprises as provided herein, including all the items specified in the proposal thereof. The lowest bid shall be determined by the commissioner of general services on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the proposal therefor at the unit prices contained in the bid. Provided, however, that where a responsible and reliable bidder certified as a minority-owned business enterprise or women-owned business enterprise pursuant to article fifteen-A of the executive law submits a bid of one million four hundred thousand dollars or less, as adjusted annually for inflation beginning January first, two thousand nineteen, the bid of the minority or women-owned business

enterprise shall be deemed the lowest bid unless it exceeds the bid of any other bidder by more than ten percent.

§ 13. The penal law is amended by adding a new article 181 to read as follows:

ARTICLE 181
MINORITY OR WOMEN-OWNED BUSINESS ENTERPRISE FRAUD

Section 181.00 Definitions.
181.10 Minority or women-owned business enterprise fraud in the third degree.
181.20 Minority or women-owned business enterprise fraud in the second degree.
181.30 Minority or women-owned business enterprise fraud in the first degree.

§ 181.00 Definitions.

1. "Minority-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

2. "State contract" shall have the same meaning as in article fifteen-A of the executive law.

3. "Women-owned business enterprise" means a business enterprise certified as such pursuant to article fifteen-A of the executive law.

§ 181.10 Minority or women-owned business enterprise fraud in the third degree.

A person is guilty of minority or women-owned business enterprise fraud in the third degree when he or she knowingly provides materially false information or omits material information concerning the use or identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business participation requirements of, a state contract.

Minority or women-owned business enterprise fraud in the third degree is a class A misdemeanor.

§ 181.20 Minority or women-owned business enterprise fraud in the second degree.

A person is guilty of minority or women-owned business enterprise fraud in the second degree when he or she knowingly provides materially false information or omits material information concerning the use or identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business participation requirements of, a state contract, and the state contract is valued in excess of fifty thousand dollars.

Minority or women-owned business enterprise fraud in the second degree is a class E felony.

§ 181.30 Minority or women-owned business enterprise fraud in the first degree.

A person is guilty of minority or women-owned business enterprise fraud in the first degree when he or she knowingly provides materially false information or omits material information concerning the use or identification of a minority or women-owned business enterprise for the purpose of being awarded, or demonstrating compliance with the minority and women-owned business participation requirements of, a state contract, and the state contract is valued in excess of one million dollars.

Minority or women-owned business enterprise fraud in the first degree is a class D felony.

§ 14. The opening paragraph of subdivision (h) of section 121 of chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, as amended by section 1 of part CCC of chapter 59 of laws of 2017, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire [~~April fifteenth, two thousand eighteen, provided, however, that if the statewide disparity study regarding the participation of minority and women-owned business enterprises in state contracts required pursuant to subdivision one of section three hundred twelve-a of the executive law is completed and delivered to the governor and the legislature on or before June thirtieth, two thousand seventeen, then the provisions of sections sixty-two through sixty-six of this act shall expire~~] and be deemed repealed on December thirty-first, two thousand [~~eighteen~~] twenty-three, except that:

§ 15. The executive law is amended by adding a new article 28 as follows:

ARTICLE 28
WORKFORCE DIVERSITY PROGRAM

Section 821. Definitions.
822. Workforce participation goals.
823. Reporting.
824. Enforcement.
825. Powers and responsibilities of the division.
826. Severability.

§ 821. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Contractor" shall mean an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, or any other party to a state contract, or a bidder in conjunction with the award of a state contract or a proposed party to a state contract.

2. "Department" shall mean the department of labor.

3. "Director" shall mean the director of the division of minority and women's business development.

4. "Disparity study" shall mean the most recent study of disparities between the utilization of minority group members and women in the performance of state contracts and the availability of minority group members and women to perform such work by the director pursuant to article fifteen-A of this chapter.

5. "Division" shall mean the department of economic development's division of minority and women's business development.

6. "List of non-compliant contractors" shall mean a list of contractors and subcontractors, maintained by the division and published on the website of the division, that are ineligible to participate as contractors or subcontractors in the performance of state contracts for a term determined by the director.

7. "Minority group member" shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:

(a) Black persons having origins in any of the Black African racial groups;

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(c) Native American or Alaskan native persons having origins in any of the original peoples of North America;

(d) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

8. "Non-compliant contractor" shall mean a contractor or subcontractor that has failed to make a good faith effort to meet the workforce participation goal established by a state agency on a state contract, and has been listed by the division on its list of non-compliant contractors.

9. "State agency" shall mean (a)(i) any state department, or (ii) any division, board, commission or bureau of any state department, or (iii) the state university of New York and the city university of New York, including all their constituent units except community colleges and the independent institutions operating statutory or contract colleges on behalf of the state, or (iv) a board, a majority of whose members are appointed by the governor or who serve by virtue of being state officers or employees as defined in subparagraph (i), (ii) or (iii) of paragraph (i) of subdivision one of section seventy-three of the public officers law.

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;
Albany Port District Commission;
Alfred, Almond, Hornellsville Sewer Authority;
Battery Park City Authority;
Cayuga County Water and Sewer Authority;
(Nelson A. Rockefeller) Empire State Plaza Performing Arts Center Corporation;
Industrial Exhibit Authority;
Livingston County Water and Sewer Authority;
Long Island Power Authority;
Long Island Rail Road;
Long Island Market Authority;
Manhattan and Bronx Surface Transit Operating Authority;
Metro-North Commuter Railroad;
Metropolitan Suburban Bus Authority;
Metropolitan Transportation Authority;
Natural Heritage Trust;
New York City Transit Authority;
New York Convention Center Operating Corporation;
New York State Bridge Authority;
New York State Olympic Regional Development Authority;
New York State Thruway Authority;
Niagara Falls Public Water Authority;
Niagara Falls Water Board;
Port of Oswego Authority;
Power Authority of the State of New York;
Roosevelt Island Operating Corporation;
Schenectady Metroplex Development Authority;
State Insurance Fund;
Staten Island Rapid Transit Operating Authority;
State University Construction Fund;

Syracuse Regional Airport Authority;
Triborough Bridge and Tunnel Authority;
Upper Mohawk valley regional water board;
Upper Mohawk valley regional water finance authority;
Upper Mohawk valley memorial auditorium authority;
Urban Development Corporation and its subsidiary corporations.
(c) the following only to the extent of state contracts entered into for its own account or for the benefit of a state agency as defined in paragraph (a) or (b) of this subdivision:
Dormitory Authority of the State of New York;
Facilities Development Corporation;
New York State Energy Research and Development Authority;
New York State Science and Technology Foundation.

10. "State contract" shall mean: (a) a written agreement or purchase order instrument, providing for a total expenditure in excess of fifty thousand dollars, whereby a state agency is committed to expend or does expend or grant funds in return for labor, services including but not limited to legal, financial and other professional services, supplies, equipment, materials or any combination of the foregoing, to be performed on behalf of, for, or rendered or furnished to the state agency; (b) a written agreement in excess of two hundred thousand dollars whereby a state agency is committed to expend or does expend or grant funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; and (c) a written agreement in excess of two hundred thousand dollars whereby the owner of a state assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project.

11. "Subcontractor" shall mean any individual or business enterprise that provides goods or services to any individual or business for use in the performance of a state contract, whether or not such goods or services are provided to a party to a state contract.

§ 822. Workforce participation goals. 1. The director, in consultation with the department, shall develop aspirational goals for the utilization of minority group members and women in construction trade, profession, and occupation.

(a) Aspirational goals for the utilization of minority group members and women must set forth the expected participation of minority group members and women in each construction trade, profession, and occupation, and shall be expressed as a percentage of the total hours of work to be performed by each trade, profession, and occupation based on the availability of minority group members and women within each trade, profession, and occupation.

(i) The aspirational goals shall set forth separate levels of expected participation by men and women for each minority group, and for Caucasian women, in each construction trade, profession, and occupation.

(ii) Aspirational goals for the expected participation of minority group members and women shall be established for each county of the state. The director may establish aspirational goals for the expected participation of minority group members and women for municipalities where the director deems feasible and appropriate.

(iii) The director shall, in establishing the aspirational goals, consider the findings of the most recent disparity study and any relevant data published by the United States Census Bureau.

(b) The director shall update the aspirational goals on a periodic basis, no less than annually.

2. State agencies shall, for each invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract, set forth the expected degree of workforce participation by minority group members and women.

(a) Each workforce participation goal established by a state agency shall set forth the expected level of participation by minority group members and women in the performance of each trade, profession, and occupation required in the performance of the contract.

(b) Goals for the participation of minority group members and women shall set forth separate goals for each of the following groups in each trade, profession, and occupation:

(i) Black men;

(ii) Black women;

(iii) Hispanic men;

(iv) Hispanic women;

(v) Native American men;

(vi) Native American women;

(vii) Asian men;

(viii) Asian women;

(ix) Caucasian women.

(c) In establishing workforce participation goals, state agencies shall consider factors including, but not limited to:

(i) the findings of the disparity study;

(ii) any relevant data published by the United States Census Bureau; and

(iii) if applicable, any aspirational goal established by the division.

(d) In any case where a state agency establishes a workforce participation goal on an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract for construction that deviates from the aspirational goal for construction work in the county or municipality in which the work will be performed, the state agency shall document numerical evidence demonstrating that the application of the aspirational goal would not be practical, feasible, or appropriate.

3. Every contractor responding to an invitation for bids, request for proposals, or other solicitation that will result in the award of a state contract subject to workforce participation goals pursuant to this section shall agree to make a good faith effort to achieve such workforce participation goal or request a waiver of such goal.

(a) A contractor that certifies that it will make a good faith effort to achieve a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals, or other solicitation:

(i) A certification stating that the contractor will make a good faith effort to achieve the applicable workforce participation goal and will contractually require any subcontractors to the contractor to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work, which certification shall acknowledge that failure by the contractor or any of its subcontractors to make a good faith effort to achieve the applicable workforce participation goal may result in a determination by the contracting state agency that the contractor or its subcontractor is a non-compliant contractor;

(ii) The level of anticipated participation by minority group members and women as employees to the contractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract;

(iii) A list of all subcontractors anticipated to perform work on the state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor, or, if the state agency has specifically indicated that such documentation is not required as part of the response to the invitation for bids, request for proposals, or other solicitation, a date certain for the submission of such documentation after the award of the state contract; and

(iv) Such other information as the contracting state agency shall require.

(b) A contractor that requests a waiver of a workforce participation goal shall provide with its response to the applicable invitation for bids, request for proposals, or other solicitation:

(i) Numerical evidence setting forth why the achievement of the workforce participation goal is not practical, feasible, or appropriate in light of the trades, professions, and occupations required to perform the work of the state contract;

(ii) Documentation of the contractor's efforts, and any efforts by subcontractors to the contractor, to promote the inclusion of minority group members and women in trades, professions, and occupations required in the performance of the state contract;

(iii) The maximum feasible level of participation by minority group members and women in each of the trades, professions, and occupations required in the performance of the work of the state contract;

(iv) The level of anticipated participation by minority group members and women as employees to the contractor;

(v) A list of all subcontractors anticipated to perform work on the state contract and the level of anticipated participation by minority group members and women as employees to each subcontractor; and

(vi) Any other relevant information evidencing that the contractor's achievement of the workforce participation goal would not be practical, feasible, or appropriate.

4. A state agency shall not award a state contract to a contractor unless the contractor has (i) certified that it will make a good faith effort to achieve the applicable workforce participation goal and provided documentation of the workforce anticipated to perform the work of the state contract or (ii) submitted a waiver request which the state agency deems to reflect the maximum feasible participation of minority group members and women in each of the trades, professions, and occupations required in performance of the work of the state contract.

(a) In the event that a contractor submits a certification or waiver request that is accepted by the state agency, the state agency shall establish in the state contract the expected level of participation by minority group members and women in each of the trades, professions, and occupations required in performance of the work of the state contract, require that the contractor make good faith efforts to achieve such workforce participation goals, require that the contractor require any subcontractors to make a good faith effort to achieve the applicable workforce participation goal in any subcontracted work, and indicate that the failure of the contractor or any of its subcontractors to make a good faith effort to achieve the workforce participation goal may

result in the contractor or subcontractor being deemed a non-compliant contractor.

(b) In the event that a contractor fails to submit a certification, waiver request, or any other information required by the state agency, or the state agency determines that a contractor's waiver request does not demonstrate that the applicable workforce participation goal is impractical, unfeasible, or inappropriate, the state agency shall notify the contractor of the deficiency in writing and provide the contractor five business days to remedy the noticed deficiency. A state agency shall reject any bid or proposal of a contractor that fails to timely respond to a notice of deficiency or to provide documentation remedying the deficiency to the satisfaction of the state agency.

(i) Where failure to remedy any notified deficiency in the workforce utilization plan is a ground for disqualification, that issue and all other grounds for disqualification shall be stated in writing by the contracting state agency. The contractor shall be entitled to an administrative hearing, on a record, involving all grounds stated by the contracting state agency in its notice of the contractor's disqualification. Such hearing shall be conducted by the appropriate authority of the contracting agency to review the determination of disqualification. A final administrative determination made following such hearing shall be reviewable in a proceeding commenced under article seventy-eight of the civil practice law and rules, provided that such proceeding is commenced within thirty days of the notice given by certified mail return receipt requested rendering such final administrative determination. Such proceeding shall be commenced in the supreme court, appellate division, third department and such proceeding shall be preferred over all other civil causes except election causes, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. Appeals taken to the court of appeals of the state of New York shall be subject to the same preference.

§ 823. Reporting. 1. State contracts shall require contractors to submit, and to require any subcontractors to submit, to the contracting state agency reports documenting the hours worked by employees of the contractor and any subcontractors in the performance of the work of the state contract. Such reports shall be submitted no less frequently than monthly for state contracts for construction and quarterly for all other state contracts. Such reports shall identify the race, ethnicity, gender, and trade, profession, or occupation of each employee performing work on a state contract.

2. State agencies shall submit periodic reports to the director, or the designee of the director, concerning the participation of minority group members and women in state contracts let by such agencies and such state agencies' compliance with this article. Such reports shall be submitted at such time, and include such information, as the director shall require in regulations. State agencies shall make available their facilities, books, and records for inspection, upon reasonable notice, by the director or the director's designee.

3. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

§ 824. Enforcement. 1. Where it appears that a contractor cannot, after a good faith effort, meet the workforce participation goals set forth in a particular state contract, a contractor may file a written application with the contracting state agency requesting a partial or total waiver of such requirements. Such request shall set forth the

reasons for such contractor's inability to meet the workforce participation goal, specifically describe the reasons for any deviations from the anticipated workforce participation set forth in the contractor's bid or proposal leading to the award of the state contract, and describe the efforts by the contractor and any subcontractors to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract. Where the contractor's inability to achieve the workforce participation goal on a state contract is attributable to the failure of one or more subcontractors to make good faith efforts to achieve the maximum feasible participation of minority group members and women in the performance of the work of the state contract, the contractor shall identify such subcontractor or subcontractors to the contracting state agency.

2. A state agency shall grant a request for a waiver of workforce participation goals on a state contract where:

(a) The contractor demonstrates that the contractor and its subcontractors made good faith efforts to achieve the workforce participation goal on the state contract, and that insufficient minority group members or women were available in the trades, professions, and occupations required to perform the work of the state contract; or,

(b) The contractor contractually required each of its subcontractors to make a good faith effort to achieve the maximum feasible participation of minority group members and women in the performance of the subcontracted work, periodically monitored such subcontractors' deployment of minority group members and women in the performance of the subcontracted work, provided notice to such subcontractors of any deficiencies in their deployment of minority group members and women in the performance of such subcontracted work, and could not achieve the workforce participation goal for one or more trades, professions, or occupations without the good faith efforts of such subcontractors.

3. Where a state agency denies a contractor's request for a waiver of workforce participation goals pursuant to this section, the state agency shall recommend to the director and the department that the contractor be deemed a non-compliant contractor.

4. Where a state agency grants a request for a waiver of workforce participation goals pursuant to this section based on one or more subcontractors' failure to make good faith efforts to achieve the maximum feasible participation of minority group members and women in the performance of the subcontracted work, the state agency shall recommend to the director and the department that the subcontractor be deemed a non-compliant contractor.

5. Upon receipt of a recommendation from a state agency that a contractor or subcontractor should be deemed a non-compliant contractor, the director shall, with the assistance of the department, review the facts and circumstances forming the basis of the recommendation and issue a determination as to whether or not the contractor or subcontractor should be deemed a non-compliant contractor and, if so, the duration of such status as a non-compliant contractor. In determining the duration of a contractor's or subcontractor's status as a non-compliant contractor, the director shall consider:

(i) whether the contractor or subcontractor has previously been deemed a non-compliant contractor;

(ii) the number of hours of expected participation by minority group members and women lost as a result of the contractor's or subcontractor's failure to make good faith efforts to include minority group members or women in the performance of one or more state contracts; and

(iii) whether the contractor or subcontractor has offered to provide employment opportunities, training, or other remedial benefits to minority group members or women in relevant trades, professions, or occupations.

6. A contractor or subcontractor deemed a non-compliant contractor by the director may request an administrative hearing before an independent hearing officer to appeal the determination of the director. The decision of the hearing officer shall be final and may only be vacated or modified as provided in article seventy-eight of the civil practice law and rules upon an application made within the time provided by such article.

7. Upon a final determination that a contractor or subcontractor is a non-compliant contractor, the director shall list the contractor or subcontractor as such on its website and indicate the term of such contractor's or subcontractor's status as a non-compliant contractor. A non-compliant contractor shall be ineligible to participate as a contractor or subcontractor on any state contract.

§ 825. Powers and responsibilities of the division. 1. The director shall post to the website of the division on or before April first of each year the aspirational goals for the utilization of minority group members and women in construction required pursuant to section eight hundred twenty-two of this article.

2. The director shall promulgate rules and regulations for the implementation of this article, including, but not limited to, procedures for the submission of certifications and workforce utilization plans by contractors, criteria for granting waivers of workforce participation goals, and the contents of reports by state agencies concerning their implementation of the requirements of this article.

3. The division shall, from time to time, review the facilities, books, and records of state agencies to ascertain the accuracy of their reports and their compliance with the requirements of this article. The department shall provide such assistance as the director shall require in carrying out the requirements of this section.

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

§ 16. This act shall take effect on April 1, 2018; provided, however, that

(a) the amendments to article 15-A of the executive law, made by sections one, two, three, four, five, six, seven and eight of this act, shall not affect the expiration and repeal of such article and shall expire and be deemed repealed therewith;

(b) the amendments to section 163 of the state finance law, made by section nine of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith;

(c) the amendments to section 139-j of the state finance law, made by section eleven of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith; and

(d) section fifteen of this act shall expire and be deemed repealed December 31, 2023.

PART R

Section 1. Paragraph (i) of subdivision (a) of section 2 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 1 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

(i) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation [~~and~~], the New York state bridge authority, the dormitory authority, the New York state urban development corporation, the office of general services, the department of health, and the New York state olympic regional development authority.

§ 2. Section 3 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 3 of part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, [~~section~~] sections 359, 1678, 1680, 1680-a and 2879-a of the public authorities law, [~~section~~] sections 407-a, 6281 and 7210 of the education law, sections 8 and 9 of the public buildings law, section 11 of chapter 795 of the laws of 1967, sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as amended, section 11 of section 1 of chapter 174 of the laws of 1968, as amended, section 29 of chapter 337 of the laws of 1972, section 21 of chapter 464 of the laws of 1972, section 103 of the general municipal law, and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts, in consultation with relevant local labor organizations and construction industry, for capital projects located in the state and related to [~~the state's~~] physical infrastructure, including, but not limited to, [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks or to improve or add to [~~the state's~~] buildings and appurtenant structures, highways, bridges, dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the office of the general services or the department of health, the total cost of each such project shall not be less than ten million dollars ($10,000,000).

§ 3. Section 7 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended to read as follows:

§ 7. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be subject to section 135 of the state finance law, section 101 of the general municipal law and section 222 of the labor law; provided, however, that an authorized entity may fulfill its obligations under section 135 of the state finance law or section 101 of the general municipal law by requiring the contractor to prepare separate specifications in accordance with section 135 of the state finance law or section 101 of the general municipal law as the case may be.

§ 4. Section 13 of part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, as amended by section 11 of

part RRR of chapter 59 of the laws of 2017, is amended to read as follows:

§ 13. Alternative construction awarding processes. (a) Notwithstanding the provisions of any other law to the contrary, the authorized state entity may award a construction contract:

1. To the contractor offering the best value[~~; or~~]:

[~~2.~~] (i) Utilizing a cost-plus not to exceed guaranteed maximum price form of contract in which the authorized state entity shall be entitled to monitor and audit all project costs. In establishing the schedule and process for determining a guaranteed maximum price, the contract between the authorized state entity and the contractor shall:

[~~(i)~~] (a) describe the scope of the work and the cost of performing such work;

[~~(ii)~~] (b) include a detailed line item cost breakdown;

[~~(iii)~~] (c) include a list of all drawings, specifications and other information on which the guaranteed maximum price is based;

[~~(iv)~~] (d) include the dates for substantial and final completion on which the guaranteed maximum price is based; and

[~~(v)~~] (e) include a schedule of unit prices; or

[~~3.~~] (ii) Utilizing a lump sum contract in which the contractor agrees to accept a set dollar amount for a contract which comprises a single bid without providing a cost breakdown for all costs such as for equipment, labor, materials, as well as such contractor's profit for completing all items of work comprising the project **which lump sum price may be negotiated and established by the authorized state entity based on a proposed guaranteed maximum price**.

2. The design-build contract may include both lump sum elements and cost-plus not to exceed guaranteed maximum price elements, and also may provide for professional services on a fee-for-service basis.

(b) Capital projects undertaken by an authorized state entity may include an incentive clause in the contract for various performance objectives, but the incentive clause shall not include an incentive that exceeds the quantifiable value of the benefit received by the authorized state entity. [~~The~~] **Notwithstanding the provisions of sections 136 and 137 of the state finance law, the** authorized state entity shall establish such performance and payment bonds**, bonds or other form of undertaking,** as it deems necessary.

§ 5. Part F of chapter 60 of the laws of 2015, constituting the infrastructure investment act, is amended by adding a new section 15-a to read as follows:

§ 15-a. Any contract awarded pursuant to this act shall be deemed to be awarded pursuant to a competitive procurement for purposes of section 2879-a of the public authorities law.

§ 6. This act shall take effect immediately; provided, however that the amendments to the infrastructure investment act made by sections one through five of this act shall not affect the repeal of such act and shall be deemed repealed therewith.

PART S

Section 1. Section 2 of 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, as amended by section 1 of part Q of chapter 58 of the laws of 2017, is amended to read as follows:

§ 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, [~~2018~~] 2019.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2018.

PART T

Section 1. Paragraph (d) of section 304 of the business corporation law is amended to read as follows:

(d) Any designated post office address maintained by the secretary of state as agent of a domestic corporation or foreign corporation for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such corporation as required by this article. Any designated [~~post-office~~] post office address to which the secretary of state or a person shall mail a copy of any process served upon [~~him~~] the secretary of state as agent of a domestic corporation or a foreign corporation, shall continue until the filing of a certificate under this chapter directing the mailing to a different [~~post-office~~] post office address.

§ 2. Paragraph (a) of section 305 of the business corporation law, as amended by chapter 131 of the laws of 1985, is amended to read as follows:

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

§ 3. Subparagraph 1 of paragraph (b) of section 306 of the business corporation law, as amended by chapter 419 of the laws of 1990, is amended to read as follows:

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation, or other business entity that has designated the secretary of state as agent for service of process pursuant to article nine of this chapter, shall be made by [~~personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement~~] mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the process and notice of service thereof shall be mailed, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department. On the same day that such process is mailed, a dupli-

cate copy of such process and proof of mailing together with the statutory fee, which fee shall be a taxable disbursement, shall be personally delivered to and left with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such corporation or other business entity shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.~~]

§ 4. Subparagraphs 2 and 3 of paragraph (a) of section 306-A of the business corporation law, as added by chapter 469 of the laws of 1997, are amended to read as follows:

(2) That the address of the party has been designated by the corporation as the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process served on the secretary of state as agent for such corporation, specifying such address, and that such party wishes to resign.

(3) That at least sixty days prior to the filing of the certificate of resignation for receipt of process with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designating corporation, if other than the party filing the certificate of resignation[~~,~~] for receipt of process, or if the [~~resigning~~] designating corporation has no registered agent, then to the last address of the designating corporation known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating corporation, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the corporation, specifying what efforts were made.

§ 5. Subparagraph 7 of paragraph (a) of section 402 of the business corporation law is amended to read as follows:

(7) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 6. Subparagraph (c) of paragraph 1 of section 408 of the business corporation law, as amended by section 3 of part S of chapter 59 of the laws of 2015, is amended to read as follows:

(c) The post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state. Such address shall supersede any previous address on file with the department of state for this purpose.

§ 7. Subparagraph 4 of paragraph (b) of section 801 of the business corporation law is amended to read as follows:

(4) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the corporation served upon [~~him~~] the secretary of state.

§ 8. Subparagraph 2 of paragraph (b) of section 803 of the business corporation law, as amended by chapter 803 of the laws of 1965, is amended to read as follows:

(2) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the corporation served upon [~~him~~] the secretary of state.

§ 9. Paragraph (b) of section 805-A of the business corporation law, as added by chapter 725 of the laws of 1964, is amended to read as follows:

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a corporation served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or other corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such corporation, may be signed[~~, verified~~] and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subparagraphs [~~(a)~~] (1), (2) and (3) of paragraph (a) of this section; that a notice of the proposed change was mailed to the corporation by the party signing the certificate not less than thirty days prior to the date of delivery to the department and that such corporation has not objected thereto; and that the party signing the certificate is the agent of such corporation to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed[~~, verified~~] and delivered under this paragraph shall not be deemed to effect a change of location of the office of the corporation in whose behalf such certificate is filed.

§ 10. Subparagraph 8 of paragraph (a) of section 904-a of the business corporation law, as amended by chapter 177 of the laws of 2008, is amended to read as follows:

(8) If the surviving or resulting entity is a foreign corporation or other business entity, a designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in paragraph (b) of section three hundred six of this chapter, in any action or special proceeding, and a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state. Such post office address shall supersede any prior address designated as the address to which process shall be mailed;

§ 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of the business corporation law, as amended by chapter 494 of the laws of 1997, is amended to read as follows:

(G) A designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding, and a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state. Such post office address shall supersede any prior address designated as the address to which process shall be mailed.

§ 12. Subparagraph 6 of paragraph (a) of section 1304 of the business corporation law, as amended by chapter 684 of the laws of 1963 and as renumbered by chapter 590 of the laws of 1982, is amended to read as follows:

(6) A designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 13. Subparagraph 7 of paragraph (a) of section 1308 of the business corporation law, as amended by chapter 725 of the laws of 1964 and as renumbered by chapter 186 of the laws of 1983, is amended to read as follows:

(7) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section 1309-A of the business corporation law, subparagraph 2 of paragraph (a) as added by chapter 725 of the laws of 1964 and paragraph (c) as amended by chapter 172 of the laws of 1999, are amended to read as follows:

(2) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

(c) A certificate of change of application for authority which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against an authorized foreign corporation served upon [~~him or which~~] the secretary of state and/or changes the address of its registered agent, provided such address is the address of a person, partnership, limited liability company or other corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such authorized foreign corporation, may be signed and delivered to the department of state by such agent. The certificate of change of application for authority shall set forth the statements required under subparagraphs (1), (2), (3) and (4) of paragraph (b) of this section; that a notice of the proposed change was mailed by the party signing the certificate to the authorized foreign corporation not less than thirty days prior to the date of delivery to the department and that such corporation has not objected thereto; and that the party signing the certificate is the agent of such foreign corporation to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this paragraph shall not be deemed to effect a change of location of the office of the corporation in whose behalf such certificate is filed.

§ 15. Subparagraphs 1 and 6 of paragraph (a) of section 1310 of the business corporation law, subparagraph 1 as amended by chapter 590 of the laws of 1982, are amended to read as follows:

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

(6) A post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 16. Subparagraph 4 of paragraph (d) of section 1310 of the business corporation law is amended to read as follows:

(4) The changed post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 17. Section 1311 of the business corporation law, as amended by chapter 375 of the laws of 1998, is amended to read as follows:

§ 1311. Termination of existence.

When an authorized foreign corporation is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of its incorporation or when such foreign corporation is merged into or consolidated with another foreign corporation, a certificate of the secretary of state, or official performing the equivalent function as to corporate records, of the jurisdiction of incorporation of such foreign corporation attesting to the occurrence of any such event or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign corporation, the termination of its existence or the cancellation of its authority shall be delivered to the department of state. The filing of the certificate, order or decree shall have the same effect as the filing of a certificate of surrender of authority under section 1310 (Surrender of authority). The secretary of state shall continue as agent of the foreign corporation upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding based upon any liability or obligation incurred by the foreign corporation within this state prior to the filing of such certificate, order or decree and [~~he~~] the person serving such process shall [~~promptly cause a copy of any such~~] send the process [~~to be mailed~~] by [~~registered~~] certified mail, return receipt requested, to such foreign corporation at the post office address on file in [~~his~~] the office of the secretary of state specified for such purpose and shall provide the secretary of state with proof of such mailing in the manner set forth in paragraph (b) of section 306 (Service of process). The post office address may be changed by signing and delivering to the department of state a certificate of change setting forth the statements required under section 1309-A (Certificate of change; contents) to effect a change in the post office address under subparagraph seven of paragraph (a) [~~(4)~~] of section 1308 (Amendments or changes).

§ 18. Subparagraph 6 of paragraph (a) of section 1530 of the business corporation law, as added by chapter 505 of the laws of 1983, is amended to read as follows:

(6) A designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 19. Subdivision 10 of section 11 of the cooperative corporations law, as added by chapter 97 of the laws of 1969, is amended to read as follows:

10. A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~]

a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 20. Subdivision 10 of section 96 of the executive law, as amended by chapter 39 of the laws of 1987, is amended to read as follows:

10. For service of process on the secretary of state, acting as agent for a third party pursuant to law, except as otherwise specifically provided by law, forty dollars. No fee shall be collected for process served on behalf of [~~a~~] any state official, department, board, agency, authority, county, city, town or village or other political subdivision of the state. The fees paid the secretary of state shall be a taxable disbursement.

§ 21. The opening paragraph of subdivision 2 and subdivision 3 of section 18 of the general associations law, as amended by chapter 13 of the laws of 1938, are amended and two new subdivisions 5 and 6 are added to read as follows:

Every association doing business within this state shall file in the department of state a certificate in its associate name, signed [~~and acknowledged~~] by its president, or a vice-president, or secretary, or treasurer, or managing director, or trustee, designating the secretary of state as an agent upon whom process in any action or proceeding against the association may be served within this state, and setting forth an address to which [~~the secretary of state~~] a person shall mail a copy of any process against the association which may be served upon [~~him~~] the secretary of state pursuant to law. Annexed to the certificate of designation shall be a statement, executed in the same manner as the certificate is required to be executed under this section, which shall set forth:

3. Any association, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process served on the secretary of state, by filing a statement to that effect, executed[~~,~~] and signed [~~and acknowledged~~] in like manner as a certificate of designation as herein provided.

5. Any designated post office address maintained by the secretary of state as agent in any action or proceeding against the association for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such association as required by this article. Such address shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

6. "Process" means judicial process and all orders, demands, notices or other papers required or permitted by law to be personally served on an association, for the purpose of acquiring jurisdiction of such association in any action or proceeding, civil or criminal, whether judicial, administrative, arbitrative or otherwise, in this state or in the federal courts sitting in or for this state.

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

§ 19. Service of process. 1. Service of process against an association upon the secretary of state shall be made by mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day that such process is mailed, a duplicate copy of such process and proof of mailing shall be personally [~~delivering~~] delivered to and [~~leaving~~] left with [~~him~~] the secretary of state or a deputy [~~secretary of state or an associate attorney, senior attorney or~~

~~attorney in the corporation division of the department of state, duplicate copies of such process at the office of the department of state in the city of Albany~~] so designated. At the time of such service the plaintiff shall pay a fee of forty dollars to the secretary of state, which shall be a taxable disbursement. [~~If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process. The secretary of state shall forthwith send by registered mail one of such copies to the association at the address fixed for that purpose, as herein provided.~~]

2. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such association shall be complete when the secretary of state is so served. If the action or proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the cause of action arose within the territorial jurisdiction of the court and the office of the defendant, as set forth in its statement filed pursuant to section eighteen of this [~~chapter~~] article, is within such territorial jurisdiction.

§ 23. Subdivision 2 of section 352-b of the general business law, as amended by chapter 252 of the laws of 1983, is amended to read as follows:

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with [~~him or~~] the secretary of state, a deputy secretary of state, or with a person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general to such person, partnership, corporation, company, trust or association, by registered or certified mail with return receipt requested, at [~~his or its~~] the office as set forth in the "broker-dealer's statement", "salesman's statement" or "investment advisor's statement" filed in the department of law pursuant to section three hundred fifty-nine-e or section three hundred fifty-nine-eee of this article, or in default of the filing of such statement, at the last address known to the attorney general. Service of such process shall be complete on receipt by the attorney general of a return receipt purporting to be signed by the addressee or a person qualified to receive [~~his or its~~] registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or [~~his or its~~] their agent, on return to the attorney general of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 24. Section 686 of the general business law, as added by chapter 730 of the laws of 1980, is amended to read as follows:

§ 686. Designation of secretary of state as agent for service of process; service of process. Any person who shall offer to sell or sell a franchise in this state as a franchisor, subfranchisor or franchise sales agent shall be deemed to have irrevocably appointed the secretary of state as his or [~~its~~] her agent upon whom may be served any summons, complaint, subpoena, subpoena duces tecum, notice, order or other process directed to such person, or any partner, principal, officer, salesman or director thereof, or his or [~~its~~] her successor, administrator or executor, in any action, investigation, or proceeding which arises under this article or a rule hereunder, with the same force and validity as if served personally on such person. Service of such process upon the

secretary of state shall be made by personally delivering to and leaving with [~~him or~~] the secretary of state, a deputy secretary of state, or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state, and such service shall be sufficient provided that notice of such service and a copy of such process are sent forthwith by the department to such person, by registered or certified mail with return receipt requested, at [~~his~~] the address [~~as~~] set forth in the application for registration of his or her offering prospectus or in the registered offering prospectus itself filed with the department of law pursuant to this article, or in default of the filing of such application or prospectus, at the last address known to the department. Service of such process shall be complete upon receipt by the department of a return receipt purporting to be signed by the addressee or a person qualified to receive [~~his or its~~] registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused or unclaimed by the addressee or his or [~~its~~] her agent, or if the addressee moved without leaving a forwarding address, upon return to the department of the original envelope bearing a notation by the postal authorities that receipt thereof was refused or that such mail was otherwise undeliverable.

§ 25. Paragraph 4 of subdivision (e) of section 203 of the limited liability company law, as added by chapter 470 of the laws of 1997, is amended to read as follows:

(4) a designation of the secretary of state as agent of the limited liability company upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against the limited liability company served upon [~~him or her~~] the secretary of state;

§ 26. Paragraph 4 of subdivision (a) of section 206 of the limited liability company law, as amended by chapter 44 of the laws of 2006, is amended to read as follows:

(4) a statement that the secretary of state has been designated as agent of the limited liability company upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 27. Paragraph 6 of subdivision (d) of section 211 of the limited liability company law is amended to read as follows:

(6) a change in the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the limited liability company served upon [~~him or her~~] the secretary of state if such change is made other than pursuant to section three hundred one of this chapter;

§ 28. Section 211-A of the limited liability company law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

§ 211-A. Certificate of change. (a) A limited liability company may amend its articles of organization from time to time to (i) specify or change the location of the limited liability company's office; (ii) specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the limited liability company served upon [~~him~~] the secretary of state; and (iii) make, revoke or change the designation of a registered agent, or specify or change the address of the registered agent. Any one or more such changes may be accomplished by filing a certificate of change which

shall be entitled "Certificate of Change of ..... (name of limited liability company) under section 211-A of the Limited Liability Company Law" and shall be signed and delivered to the department of state. It shall set forth:

(1) the name of the limited liability company, and if it has been changed, the name under which it was formed;

(2) the date the articles of organization were filed by the department of state; and

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process against a limited liability company served upon [~~him or~~] **the secretary of state and/or** the address of the registered agent, provided such address being changed is the address of a person, partnership~~,~~ **limited liability company** or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited liability company may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the domestic limited liability company by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such domestic limited liability company has not objected thereto; and that the party signing the certificate is the agent of such limited liability company to whose address [~~the secretary of state~~] **a person** is required to mail copies of process **served on the secretary of state** or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability company in whose behalf such certificate is filed.

§ 29. Paragraph 2 of subdivision (b) of section 213 of the limited liability company law is amended to read as follows:

(2) to change the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process against the limited liability company served upon [~~him or her~~] **the secretary of state**; and

§ 30. Subdivisions (c) and (e) of section 301 of the limited liability company law, subdivision (e) as amended by section 5 of part S of chapter 59 of the laws of 2015, are amended to read as follows:

(c) **Any designated post office address maintained by the secretary of state as agent of a domestic limited liability company or foreign limited liability company for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such limited liability company as required by this article.** Any designated post office address to which the secretary of state **or a person** shall mail a copy of process served upon [~~him or her~~] **the secretary of state** as agent of a domestic limited liability company or a foreign limited liability company shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

[~~(c)~~] **(d)** (1) Except as otherwise provided in this subdivision, every limited liability company to which this chapter applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the secretary of state, a statement setting forth the post office address within or without this state to which [~~the secretary of state~~] **a person** shall mail a copy of any process

accepted against it served upon [~~him or her~~] **the secretary of state**. Such address shall supersede any previous address on file with the department of state for this purpose.

(2) The commissioner of taxation and finance and the secretary of state may agree to allow limited liability companies to include the statement specified in paragraph one of this subdivision on tax reports filed with the department of taxation and finance in lieu of biennial statements and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each limited liability company required to file the statement specified in paragraph one of this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this section with the department of state. However, each limited liability company required to file a statement under this section must continue to file the biennial statement required by this section with the department of state until the limited liability company in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the limited liability company shall continue to provide annually the statement specified in paragraph one of this subdivision on its filing fee payment form in lieu of the biennial statement required by this subdivision.

(3) If the agreement described in paragraph two of this subdivision is made, the department of taxation and finance shall deliver to the department of state the statement specified in paragraph one of this subdivision contained on filing fee payment forms. The department of taxation and finance must, to the extent feasible, also include the current name of the limited liability company, department of state identification number for such limited liability company, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.

§ 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of section 301-A of the limited liability company law, as added by chapter 448 of the laws of 1998, are amended to read as follows:

(2) that the address of the party has been designated by the limited liability company as the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process served on the secretary of state as agent for such limited liability company, **such address** and that such party wishes to resign.

(3) that **at least** sixty days prior to the filing of the certificate of resignation **for receipt of process** with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designated limited liability company, if other than the party filing the certificate of resignation[~~,~~] for receipt of process, or if the [~~resigning~~] **designating** limited liability company has no registered agent, then to the last address of the designated limited liability company known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited liability company, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful

search was made by the party to locate the limited liability company, specifying what efforts were made.

(ii) sent by or on behalf of the plaintiff to such limited **liability** company by registered or certified mail with return receipt requested to the last address of such limited liability company known to the plaintiff.

(ii) Where service of a copy of process was effected by mailing in accordance with this section, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after receipt of the return receipt signed by the limited liability company or other official proof of delivery or of the original envelope mailed. If a copy of the process is mailed in accordance with this section, there shall be filed with the affidavit of compliance either the return receipt signed by such limited **liability** company or other official proof of delivery, if acceptance was refused by it, the original envelope with a notation by the postal authorities that acceptance was refused. If acceptance was refused a copy of the notice and process together with notice of the mailing by registered or certified mail and refusal to accept shall be promptly sent to such limited liability company at the same address by ordinary mail and the affidavit of compliance shall so state. Service of process shall be complete ten days after such papers are filed with the clerk of the court. The refusal to accept delivery of the registered or certified mail or to sign the return receipt shall not affect the validity of the service and such limited liability company refusing to accept such registered or certified mail shall be charged with knowledge of the contents thereof.

§ 32. Subdivision (a) of section 303 of the limited liability company law, as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a domestic limited liability company [~~or~~]**,** authorized foreign limited liability company**, or other business entity that has designated the secretary of state as agent for service of process pursuant to article ten of this chapter,** shall be made by mailing the process and notice of service thereof by certified mail, return receipt requested, to such limited liability company or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day as such process is mailed, a duplicate copy of such process and proof of mailing shall be [~~made by~~] personally [~~delivering~~] **delivered** to and [~~leaving~~] **left** with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies of such process~~] together with the statutory fee, which fee shall be a taxable disbursement. **Proof of mailing shall be by affidavit of compliance with this section.** Service of process on such limited liability company **or other business entity** shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose.~~]

§ 33. Section 305 of the limited liability company law is amended to read as follows:

§ 305. Records of process served on the secretary of state. The [~~secretary of state~~] **department of state** shall keep a record of each process served upon the secretary of state under this chapter, including the date of such service [~~and the action of the secretary of state with~~

~~reference thereto~~]. It shall, upon request made within ten years of such service, issue a certificate under its seal certifying as to the receipt of the process by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served upon the secretary of state under this chapter shall be destroyed by the department of state after a period of ten years from such service.

§ 34. Paragraph 4 of subdivision (a) of section 802 of the limited liability company law, as amended by chapter 470 of the laws of 1997, is amended to read as follows:

(4) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 35. Section 804-A of the limited liability company law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

§ 804-A. Certificate of change. (a) A foreign limited liability company may amend its application for authority from time to time to (i) specify or change the location of the limited liability company's office; (ii) specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the limited liability company served upon [~~him~~] the secretary of state; and (iii) to make, revoke or change the designation of a registered agent, or to specify or change the address of a registered agent. Any one or more such changes may be accomplished by filing a certificate of change which shall be entitled "Certificate of Change of ..... (name of limited liability company) under section 804-A of the Limited Liability Company Law" and shall be signed and delivered to the department of state. It shall set forth:

(1) the name of the foreign limited liability company and, if applicable, the fictitious name the limited liability company has agreed to use in this state pursuant to section eight hundred two of this article;

(2) the date its application for authority was filed by the department of state; and

(3) each change effected thereby[~~;~~].

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a foreign limited liability company served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership [~~or~~], corporation or other limited liability company whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited liability company may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the foreign limited liability company by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such foreign limited liability company has not objected thereto; and that the party signing the certificate is the agent of such foreign limited liability company to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the

foreign limited liability company in whose behalf such certificate is filed.

§ 36. Paragraph 6 of subdivision (b) of section 806 of the limited liability company law is amended to read as follows:

(6) a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state.

§ 37. Paragraph 11 of subdivision (a) of section 1003 of the limited liability company law, as amended by chapter 374 of the laws of 1998, is amended to read as follows:

(11) a designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in article three of this chapter in any action or special proceeding, and a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process served upon [~~him or her~~] the secretary of state. Such post office address shall supersede any prior address designated as the address to which process shall be mailed;

§ 38. Clause (iv) of subparagraph (A) of paragraph 2 of subdivision (c) of section 1203 of the limited liability company law, as amended by chapter 44 of the laws of 2006, is amended to read as follows:

(iv) a statement that the secretary of state has been designated as agent of the professional service limited liability company upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 39. Paragraph 6 of subdivision (a) and subparagraph 5 of paragraph (i) of subdivision (d) of section 1306 of the limited liability company law, subparagraph 5 of paragraph (i) of subdivision (d) as amended by chapter 44 of the laws of 2006, are amended to read as follows:

(6) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state; and

(5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 40. Paragraph (d) of section 304 of the not-for-profit corporation law, as amended by chapter 358 of the laws of 2015, is amended to read as follows:

(d) Any designated post office address maintained by the secretary of state as agent of a domestic not-for-profit corporation or foreign not-for-profit corporation for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such corporation as required by this article. Any designated [~~post office~~] post office address to which the secretary of state or a person shall mail a copy of process served upon [~~him or her~~] the secretary of state as agent of a domestic corporation formed under article four of this chapter or foreign corporation, shall continue until the filing of a certificate under this chapter directing the mailing to a different [~~post office~~] post office address.

§ 41. Paragraph (a) of section 305 of the not-for-profit corporation law, as amended by chapter 549 of the laws of 2013, is amended to read as follows:

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

§ 42. Paragraph (b) of section 306 of the not-for-profit corporation law, as amended by chapter 23 of the laws of 2014, is amended to read as follows:

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by **mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day that such process is mailed, a duplicate copy of such process and proof of mailing shall be** personally [~~**delivering**~~] **delivered** to and [~~**leaving**~~] **left** with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~**duplicate copies of such process**~~] together with the statutory fee, which fee shall be a taxable disbursement. **Proof of mailing shall be by affidavit of compliance with this section.** Service of process on such corporation **or other business entity** shall be complete when the secretary of state is so served. [~~**The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose.**~~] If a domestic corporation formed under article four of this chapter or an authorized foreign corporation has no such address on file in the department of state, the [~~**secretary of state shall so mail such**~~] **duplicate** copy **of the process shall be mailed** to such corporation at the address of its office within this state on file in the department.

§ 43. Subparagraph 6 of paragraph (a) of section 402 of the not-for-profit corporation law, as added by chapter 564 of the laws of 1981 and as renumbered by chapter 132 of the laws of 1985, is amended to read as follows:

(6) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address**,** within or without this state**,** to which [~~**the secretary of state**~~] **a person** shall mail a copy of any process against it served upon [~~**him**~~] **the secretary of state**.

§ 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-profit corporation law, as amended by chapter 438 of the laws of 1984, is amended to read as follows:

(7) To specify or change the post office address to which [~~**the secretary of state**~~] **a person** shall mail a copy of any process against the corporation served upon [~~**him**~~] **the secretary of state**.

§ 45. Subparagraph 2 of paragraph (c) of section 802 of the not-for-profit corporation law, as amended by chapter 186 of the laws of 1983, is amended to read as follows:

(2) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the corporation served upon [~~him~~] the secretary of state.

§ 46. Subparagraph 6 of paragraph (a) of section 803 of the not-for-profit corporation law, as amended by chapter 23 of the laws of 2014, is amended to read as follows:

(6) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon the secretary of state.

§ 47. Paragraph (b) of section 803-A of the not-for-profit corporation law, as amended by chapter 172 of the laws of 1999, is amended to read as follows:

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the corporation served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or other corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such corporation, may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subparagraphs (1), (2) and (3) of paragraph (a) of this section; that a notice of the proposed change was mailed to the corporation by the party signing the certificate not less than thirty days prior to the date of delivery to the department and that such corporation has not objected thereto; and that the party signing the certificate is the agent of such corporation to whose address [~~the secretary of state~~] a person is required to mail copies of any process against the corporation served upon [~~him~~] the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this paragraph shall not be deemed to effect a change of location of the office of the corporation in whose behalf such certificate is filed.

§ 48. Clause (E) of subparagraph 2 of paragraph (d) of section 906 of the not-for-profit corporation law, as amended by chapter 1058 of the laws of 1971, is amended to read as follows:

(E) A designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding described in [~~subparagraph~~] clause (D) of this subparagraph and a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of the process in such action or special proceeding served upon the secretary of state.

§ 49. Clause (F) of subparagraph 2 of paragraph (d) of section 908 of the not-for-profit corporation law is amended to read as follows:

(F) A designation of the secretary of state as [~~his~~] its agent upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding described in [~~subparagraph~~] clause (D) of this subparagraph and a post office address, within or without the state, to which [~~the secretary of state~~] a person shall mail a copy of the process in such action or special proceeding served upon by the secretary of state.

§ 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-profit corporation law, as renumbered by chapter 590 of the laws of 1982, is amended to read as follows:

(6) A designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-profit corporation law, as renumbered by chapter 186 of the laws of 1983, is amended to read as follows:

(7) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section 1310 of the not-for-profit corporation law, paragraph (c) as amended by chapter 172 of the laws of 1999, are amended to read as follows:

(2) To specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

(c) A certificate of change of application for authority which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against an authorized foreign corporation served upon [~~him or~~] the secretary of state and/or which changes the address of its registered agent, provided such address is the address of a person, partnership, limited liability company or other corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such authorized foreign corporation, may be signed and delivered to the department of state by such agent. The certificate of change of application for authority shall set forth the statements required under subparagraphs (1), (2), (3) and (4) of paragraph (b) of this section; that a notice of the proposed change was mailed by the party signing the certificate to the authorized foreign corporation not less than thirty days prior to the date of delivery to the department and that such corporation has not objected thereto; and that the party signing the certificate is the agent of such foreign corporation to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this paragraph shall not be deemed to effect a change of location of the office of the corporation in whose behalf such certificate is filed.

§ 53. Subparagraph 6 of paragraph (a) and subparagraph 4 of paragraph (d) of section 1311 of the not-for-profit corporation law are amended to read as follows:

(6) A post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

(4) The changed post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 54. Section 1312 of the not-for-profit corporation law, as amended by chapter 375 of the laws of 1998, is amended to read as follows:

§ 1312. Termination of existence.

When an authorized foreign corporation is dissolved or its authority or existence is otherwise terminated or cancelled in the jurisdiction of

its incorporation or when such foreign corporation is merged into or consolidated with another foreign corporation, a certificate of the secretary of state, or official performing the equivalent function as to corporate records, of the jurisdiction of incorporation of such foreign corporation attesting to the occurrence of any such event or a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign corporation, the termination of its existence or the cancellation of its authority shall be delivered to the department of state. The filing of the certificate, order or decree shall have the same effect as the filing of a certificate of surrender of authority under section 1311 (Surrender of authority). The secretary of state shall continue as agent of the foreign corporation upon whom process against it may be served in the manner set forth in paragraph (b) of section 306 (Service of process), in any action or special proceeding based upon any liability or obligation incurred by the foreign corporation within this state prior to the filing of such certificate, order or decree and [~~he~~] **the person serving such process** shall promptly cause a copy of any such process to be mailed by [~~registered~~] **certified** mail, return receipt requested, to such foreign corporation at the post office address on file [~~in his office~~] **with the department** specified for such purpose. The post office address may be changed by signing and delivering to the department of state a certificate of change setting forth the statements required under section 1310 (Certificate of change, contents) to effect a change in the post office address under subparagraph [~~(a) (4)~~] **(7) of paragraph (a)** of section 1308 (Amendments or changes).

§ 55. Subdivision (c) of section 121-104 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(c) **Any designated post office address maintained by the secretary of state as agent of a domestic limited partnership or foreign limited partnership for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such limited partnership as required by this article.** Any designated post office address to which the secretary of state **or a person** shall mail a copy of process served upon [~~him~~] **the secretary of state** as agent of a domestic limited partnership or foreign limited partnership shall continue until the filing of a certificate under this article directing the mailing to a different post office address.

§ 56. Paragraphs 1, 2 and 3 of subdivision (a) of section 121-104-A of the partnership law, as added by chapter 448 of the laws of 1998, are amended to read as follows:

(1) the name of the limited partnership and the date that its [~~articles of organization~~] **certificate of limited partnership** or application for authority was filed by the department of state.

(2) that the address of the party has been designated by the limited partnership as the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process served on the secretary of state as agent for such limited partnership, and that such party wishes to resign.

(3) that **at least** sixty days prior to the filing of the certificate of resignation **for receipt of process** with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the [~~designated~~] **designating** limited partnership, if other than the party filing the certificate of resignation[~~,~~] for receipt of process, or if the [~~resigning~~] **designating** limited partnership has no regis-

tered agent, then to the last address of the [~~designated~~] **designating** limited partnership, known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited partnership the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited partnership, specifying what efforts were made.

§ 57. Subdivision (a) of section 121-105 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(a) In addition to the designation of the secretary of state, each limited partnership or authorized foreign limited partnership may designate a registered agent upon whom process against the limited partnership may be served. The agent must be (i) a natural person who is a resident of this state or has a business address in this state, [~~or~~] (ii) a domestic corporation or a foreign corporation authorized to do business in this state**, or (iii) a domestic limited liability company or a foreign limited liability company authorized to do business in this state**.

§ 58. Subdivisions (a) and (c) of section 121-109 of the partnership law, as added by chapter 950 of the laws of 1990 and as relettered by chapter 341 of the laws of 1999, are amended to read as follows:

(a) Service of process on the secretary of state as agent of a domestic or authorized foreign limited partnership**, or other business entity that has designated the secretary of state as agent for service of process pursuant to this chapter,** shall be made [~~as follows:~~

~~(1) By~~] **by mailing the process and notice of service of process pursuant to this section by certified mail, return receipt requested, to such domestic or authorized foreign limited partnership or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day as the process is mailed, a duplicate copy of such process and proof of mailing shall be** personally [~~delivering~~] **delivered** to and [~~leaving~~] **left** with [~~him or his~~] **the secretary of state or a** deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies of such process~~] together with the statutory fee, which fee shall be a taxable disbursement**. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such limited partnership or other business entity shall be complete when the secretary of state is so served**.

[~~(2) The service on the limited partnership is complete when the secretary of state is so served.~~

~~(3) The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, addressed to the limited partnership at the post office address, on file in the department of state, specified for that purpose.~~]

(c) The [~~secretary of state~~] **department of state** shall keep a record of all process served upon [~~him~~] **it** under this section and shall record therein the date of such service [~~and his action with reference thereto~~]**. It shall, upon request made within ten years of such service, issue a certificate under its seal certifying as to the receipt of the process by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served upon the secretary of state under this chapter shall be destroyed by the department after a period of ten years from such service.**

§ 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph (i) of subdivision (c) of section 121-201 of the partnership law, para-

graph 3 of subdivision (a) as amended by chapter 264 of the laws of 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended by chapter 44 of the laws of 2006, are amended to read as follows:

(3) a designation of the secretary of state as agent of the limited partnership upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state;

(4) a statement that the secretary of state has been designated as agent of the limited partnership upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 60. Paragraph 4 of subdivision (b) of section 121-202 of the partnership law, as amended by chapter 576 of the laws of 1994, is amended to read as follows:

(4) a change in the name of the limited partnership, or a change in the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against the limited partnership served on [~~him~~] the secretary of state, or a change in the name or address of the registered agent, if such change is made other than pursuant to section 121-104 or 121-105 of this article.

§ 61. Section 121-202-A of the partnership law, as added by chapter 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by chapter 172 of the laws of 1999, is amended to read as follows:

§ 121-202-A. Certificate of change. (a) A certificate of limited partnership may be changed by filing with the department of state a certificate of change entitled "Certificate of Change of ..... (name of limited partnership) under Section 121-202-A of the Revised Limited Partnership Act" and shall be signed and delivered to the department of state. A certificate of change may (i) specify or change the location of the limited partnership's office; (ii) specify or change the post office address to which [~~the secretary of state~~] a person shall mail a copy of process against the limited partnership served upon [~~him~~] the secretary of state; and (iii) make, revoke or change the designation of a registered agent, or to specify or change the address of its registered agent. It shall set forth:

(1) the name of the limited partnership, and if it has been changed, the name under which it was formed;

(2) the date its certificate of limited partnership was filed by the department of state; and

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a limited partnership served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability corporation or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the domestic limited partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such domestic limited partnership has not objected thereto; and that the party signing

the certificate is the agent of such limited partnership to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited partnership in whose behalf such certificate is filed.

§ 62. Paragraph 4 of subdivision (a) and subparagraph 5 of paragraph (i) of subdivision (d) of section 121-902 of the partnership law, paragraph 4 of subdivision (a) as amended by chapter 172 of the laws of 1999 and subparagraph 5 of paragraph (i) of subdivision (d) as amended by chapter 44 of the laws of 2006, are amended to read as follows:

(4) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state;

(5) a statement that the secretary of state has been designated as its agent upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 63. Section 121-903-A of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

§ 121-903-A. Certificate of change. (a) A foreign limited partnership may change its application for authority by filing with the department of state a certificate of change entitled "Certificate of Change of ..... (name of limited partnership) under Section 121-903-A of the Revised Limited Partnership Act" and shall be signed and delivered to the department of state. A certificate of change may (i) change the location of the limited partnership's office; (ii) change the post office address to which [~~the secretary of state~~] a person shall mail a copy of process against the limited partnership served upon [~~him~~] the secretary of state; and (iii) make, revoke or change the designation of a registered agent, or to specify or change the address of its registered agent. It shall set forth:

(1) the name of the foreign limited partnership and, if applicable, the fictitious name the foreign limited partnership has agreed to use in this state pursuant to section 121-902 of this article;

(2) the date its application for authority was filed by the department of state; and

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of any process against a foreign limited partnership served upon [~~him or~~] the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership, limited liability company or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such foreign limited partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the foreign limited partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such foreign limited partnership has not objected thereto; and that the party signing the certificate is the agent of such foreign limited part-

nership to whose address [~~the secretary of state~~] a person is required to mail copies of process served on the secretary of state or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited partnership in whose behalf such certificate is filed.

§ 64. Paragraph 6 of subdivision (b) of section 121-905 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(6) a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him~~] the secretary of state.

§ 65. Paragraph 7 of subdivision (a) of section 121-1103 of the partnership law, as added by chapter 950 of the laws of 1990, is amended to read as follows:

(7) A designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in section 121-109 of this article in any action or special proceeding, and a post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process served upon [~~him~~] the secretary of state. Such post office address shall supersede any prior address designated as the address to which process shall be mailed.

§ 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subparagraph (A) of paragraph (II) of subdivision (a) of section 121-1500 of the partnership law, subparagraph 2 of paragraph (I) as added by chapter 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by chapter 643 of the laws of 1995 and such paragraph as redesignated by chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of paragraph (II) as amended by chapter 44 of the laws of 2006, are amended to read as follows:

(2) the address, within this state, of the principal office of the partnership without limited partners;

(4) a designation of the secretary of state as agent of the partnership without limited partners upon whom process against it may be served and the post office address, within or without this state, to which the [~~secretary of state~~] a person shall mail a copy of any process against it or served [~~upon it~~] on the secretary of state;

(4) a statement that the secretary of state has been designated as agent of the registered limited liability partnership upon whom process against it may be served and the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it served upon [~~him or her~~] the secretary of state;

§ 67. Paragraphs (ii) and (iii) of subdivision (g) of section 121-1500 of the partnership law, as amended by section 8 of part S of chapter 59 of the laws of 2015, are amended to read as follows:

(ii) the address, within this state, of the principal office of the registered limited liability partnership, (iii) the post office address, within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process accepted against it served upon [~~him or her~~] the secretary of state, which address shall supersede any previous address on file with the department of state for this purpose, and

§ 68. Subdivision (j-1) of section 121-1500 of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

(j-1) A certificate of change which changes only the post office address to which [~~the secretary of state~~] a person shall mail a copy of

any process against a registered limited liability partnership served upon [~~him~~] **the secretary of state and/**or the address of the registered agent, provided such address being changed is the address of a person, partnership**, limited liability company** or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such registered limited liability partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth: (i) the name of the registered limited liability partnership and, if it has been changed, the name under which it was originally filed with the department of state; (ii) the date of filing of its initial registration or notice statement; (iii) each change effected thereby; (iv) that a notice of the proposed change was mailed to the limited liability partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such limited liability partnership has not objected thereto; and (v) that the party signing the certificate is the agent of such limited liability partnership to whose address [~~the secretary of state~~] **a person** is required to mail copies of process **served on the secretary of state** or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability partnership in whose behalf such certificate is filed. The certificate of change shall be accompanied by a fee of five dollars.

§ 69. Subdivision (a) of section 121-1502 of the partnership law, as amended by chapter 643 of the laws of 1995, paragraph (v) as amended by chapter 470 of the laws of 1997, is amended to read as follows:

(a) In order for a foreign limited liability partnership to carry on or conduct or transact business or activities as a New York registered foreign limited liability partnership in this state, such foreign limited liability partnership shall file with the department of state a notice which shall set forth: (i) the name under which the foreign limited liability partnership intends to carry on or conduct or transact business or activities in this state; (ii) the date on which and the jurisdiction in which it registered as a limited liability partnership; (iii) the address**, within this state,** of the principal office of the foreign limited liability partnership; (iv) the profession or professions to be practiced by such foreign limited liability partnership and a statement that it is a foreign limited liability partnership eligible to file a notice under this chapter; (v) a designation of the secretary of state as agent of the foreign limited liability partnership upon whom process against it may be served and the post office address within or without this state**,** to which [~~the secretary of state~~] **a person** shall mail a copy of any process against it [~~or~~] served upon [~~it~~] **the secretary of state**; (vi) if the foreign limited liability partnership is to have a registered agent, its name and address in this state and a statement that the registered agent is to be the agent of the foreign limited liability partnership upon whom process against it may be served; (vii) a statement that its registration as a limited liability partnership is effective in the jurisdiction in which it registered as a limited liability partnership at the time of the filing of such notice; (viii) a statement that the foreign limited liability partnership is filing a notice in order to obtain status as a New York registered foreign limited liability partnership; (ix) if the registration of the foreign limited liability partnership is to be effective on a date later than the time of filing, the date, not to exceed sixty days from the

date of filing, of such proposed effectiveness; and (x) any other matters the foreign limited liability partnership determines to include in the notice. Such notice shall be accompanied by either (1) a copy of the last registration or renewal registration (or similar filing), if any, filed by the foreign limited liability partnership with the jurisdiction where it registered as a limited liability partnership or (2) a certificate, issued by the jurisdiction where it registered as a limited liability partnership, substantially to the effect that such foreign limited liability partnership has filed a registration as a limited liability partnership which is effective on the date of the certificate (if such registration, renewal registration or certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto). Such notice shall also be accompanied by a fee of two hundred fifty dollars.

§ 70. Subparagraphs (ii) and (iii) of paragraph (I) of subdivision (f) of section 121-1502 of the partnership law, as amended by section 9 of part S of chapter 59 of the laws of 2015, are amended to read as follows:

(ii) the address**, within this state,** of the principal office of the New York registered foreign limited liability partnership, (iii) the post office address**,** within or without this state**,** to which [~~the secretary of state~~] **a person** shall mail a copy of any process accepted against it served upon [~~him or her~~] **the secretary of state**, which address shall supersede any previous address on file with the department of state for this purpose, and

§ 71. Clause 5 of subparagraph (A) of paragraph (II) of subdivision (f) of section 121-1502 of the partnership law, as amended by chapter 44 of the laws of 2006, is amended to read as follows:

(5) a statement that the secretary of state has been designated as agent of the foreign limited liability partnership upon whom process against it may be served and the post office address**,** within or without this state**,** to which [~~the secretary of state~~] **a person** shall mail a copy of any process against it served upon [~~him or her~~] **the secretary of state**;

§ 72. Subdivision (i-1) of section 121-1502 of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

(i-1) A certificate of change which changes only the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process against a New York registered foreign limited liability partnership served upon [~~him~~] **the secretary of state and/**or the address of the registered agent, provided such address being changed is the address of a person, partnership**, limited liability company** or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent of such registered foreign limited liability partnership shall be signed and delivered to the department of state by such agent. The certificate of change shall set forth: (i) the name of the New York registered foreign limited liability partnership; (ii) the date of filing of its initial registration or notice statement; (iii) each change effected thereby; (iv) that a notice of the proposed change was mailed to the limited liability partnership by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such limited liability partnership has not objected thereto; and (v) that the party signing the certificate is the agent of such limited liability partnership to whose address [~~the secretary of state~~] **a person** is required to mail copies of process **served on the secretary of state** or the registered agent, if

such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability partnership in whose behalf such certificate is filed. The certificate of change shall be accompanied by a fee of five dollars.

§ 73. Subdivision (a) of section 121-1505 of the partnership law, as added by chapter 470 of the laws of 1997, is amended and two new subdivisions (d) and (e) are added to read as follows:

(a) Service of process on the secretary of state as agent of a registered limited liability partnership **or New York registered foreign limited liability partnership** under this article shall be made by **mailing the process and notice of service thereof by certified mail, return receipt requested, to such registered limited liability partnership or New York registered foreign limited liability partnership, at the post office address on file in the department of state specified for such purpose. On the same date that such process is mailed, a duplicate copy of such process and proof of mailing together with the statutory fee, which fee shall be a taxable disbursement, shall be** personally [~~deliver-ing~~] **delivered** to and [~~leaving~~] **left** with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies of such process~~] together with the statutory fee, which fee shall be a taxable disbursement. **Proof of mailing shall be by affidavit of compliance with this section.** Service of process on such registered limited liability partnership **or New York registered foreign limited liability partnership** shall be complete when the secretary of state is so served. [~~The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such registered limited liability partnership, at the post office address on file in the department of state specified for such purpose.~~]

(d) The department of state shall keep a record of each process served upon the secretary of state under this chapter, including the date of such service. It shall, upon request made within ten years of such service, issue a certificate under its seal certifying as to the receipt of the process by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served upon the secretary of state under this chapter shall be destroyed by the department of state after a period of ten years from such service.

(e) Any designated post office address maintained by the secretary of state as agent of a registered limited liability partnership or New York registered foreign limited liability partnership for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such limited liability company as required by this article. Such address shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

§ 74. Subdivision (b) of section 121-1506 of the partnership law, as added by chapter 448 of the laws of 1998, paragraph 4 as amended by chapter 172 of the laws of 1999, is amended to read as follows:

(b) The party (or the party's legal representative) whose post **office** address has been supplied by a limited liability partnership as its address for process may resign. A certificate entitled "Certificate of Resignation for Receipt of Process under Section 121-1506(b) of the Partnership Law" shall be signed by such party and delivered to the department of state. It shall set forth:

(1) The name of the limited liability partnership and the date that its certificate of registration was filed by the department of state.

(2) That the address of the party has been designated by the limited liability partnership as the post office address to which [~~the secretary of state~~] **a person** shall mail a copy of any process served on the secretary of state as agent for such limited liability partnership and that such party wishes to resign.

(3) That **at least** sixty days prior to the filing of the certificate of resignation **for receipt of process** with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the [~~designated~~] **designating** limited liability partnership, if other than the party filing the certificate of resignation, for receipt of process, or if the [~~resigning~~] **designating** limited liability partnership has no registered agent, then to the last address of the [~~designated~~] **designating** limited liability partnership, known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited liability partnership the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited liability partnership, specifying what efforts were made.

(4) That the [~~designated~~] **designating** limited liability partnership is required to deliver to the department of state a certificate of amendment providing for the designation by the limited liability partnership of a new address and that upon its failure to file such certificate, its authority to do business in this state shall be suspended.

§ 75. Paragraph 16 of subdivision 1 of section 103 of the private housing finance law, as added by chapter 22 of the laws of 1970, is amended to read as follows:

(16) A designation of the secretary of state as agent of the corporation upon whom process against it may be served and the post office address**,** within or without this state**,** to which [~~the secretary of state~~] **a person** shall mail a copy of any process against it served upon [~~him~~] **the secretary of state**.

§ 76. Subdivision 7 of section 339-n of the real property law is REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

§ 76-a. Subdivision 15 of section 20.03 of the arts and cultural affairs law, as added by chapter 656 of the laws of 1991, is amended to read as follows:

15. "Non-institutional portion" shall mean the part or portion of a combined-use facility other than the institutional portion. If the non-institutional portion, or any part thereof, consists of a condominium, the consent of the trust which has developed or approved the developer of such condominium shall be required prior to any amendment of the declaration of such condominium pursuant to subdivision [~~nine~~] **eight** of section three hundred thirty-nine-n of the real property law and prior to any amendment of the by-laws of such condominium pursuant to paragraph (j) of subdivision one of section three hundred thirty-nine-v of the real property law, and whether or not such trust is a unit owner of such condominium, it may exercise the rights of the board of managers and an aggrieved unit owner under section three hundred thirty-nine-j of the real property law in the case of a failure of any unit owner of such condominium to comply with the by-laws of such condominium and with the rules, regulations, and decisions adopted pursuant thereto.

§ 77. Subdivision 2 of section 339-s of the real property law, as added by chapter 346 of the laws of 1997, is amended to read as follows:

2. [~~Each such declaration, and any amendment or amendments thereof shall be filed with the department of state~~] (a) The board of managers for each condominium subject to this article shall file with the secretary of state a certificate, in writing, signed, designating the secretary of state as agent of the board of managers upon whom process against it may be served and the post office address to which a person shall mail a copy of such process. The certificate shall be accompanied by a fee of sixty dollars.

(b) Any board of managers may change the address to which a person shall mail a copy of process served upon the secretary of state, by filing a signed certificate of amendment with the department of state. Such certificate shall be accompanied by a fee of sixty dollars.

(c) Service of process on the secretary of state as agent of a board of managers shall be made by mailing the process and notice of service of process pursuant to this section by certified mail, return receipt requested, to such board of managers, at the post office address on file in the department of state specified for this purpose. On the same day that such process is mailed, a duplicate copy of such process and proof of mailing shall be personally delivered to and left with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, a duplicate copy of such process with proof of mailing together with the statutory fee, which shall be a taxable disbursement. Proof of mailing shall be by affidavit of compliance with this section. Service of process on a board of managers shall be complete when the secretary of state is so served.

(d) As used in this article, "process" shall mean judicial process and all orders, demands, notices or other papers required or permitted by law to be personally served on a board of managers, for the purpose of acquiring jurisdiction of such board of managers in any action or proceeding, civil or criminal, whether judicial, administrative, arbitrative or otherwise, in this state or in the federal courts sitting in or for this state.

(e) Nothing in this section shall affect the right to serve process in any other manner permitted by law.

(f) The department of state shall keep a record of each process served under this section, including the date of service. It shall, upon request, made within ten years of such service, issue a certificate under its seal certifying as to the receipt of process by an authorized person, the date and place of such service and the receipt of the statutory fee. Process served on the secretary of state under this section shall be destroyed by the department of state after a period of ten years from such service.

(g) Any designated post office address maintained by the secretary of state as agent of the board of managers for the purpose of mailing process shall be the post office address, within or without the state, to which a person shall mail process against such board as required by this article. Such address shall continue until the filing of a certificate under this chapter directing the mailing to a different post office address.

§ 78. Subdivisions 3 and 4 of section 442-g of the real property law, as amended by chapter 482 of the laws of 1963, are amended to read as follows:

3. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with [~~him or his~~] **the secretary of state or a** deputy**,** or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, [~~duplicate copies~~] **a copy** of such process **and proof of mailing** together with a fee of five dollars if the action is solely for the recovery of a sum of money not in excess of two hundred dollars and the process is so endorsed, and a fee of ten dollars in any other action or proceeding, which fee shall be a taxable disbursement. If such process is served upon behalf of a county, city, town or village, or other political subdivision of the state, the fee to be paid to the secretary of state shall be five dollars, irrespective of the amount involved or the nature of the action on account of which such service of process is made. [~~If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process.~~] **Proof of mailing shall be by affidavit of compliance with this section.** Proof of service shall be by affidavit of compliance with this subdivision filed by or on behalf of the plaintiff together with the process, within ten days after such service, with the clerk of the court in which the action or special proceeding is pending. Service made as provided in this section shall be complete ten days after such papers are filed with the clerk of the court and shall have the same force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues.

4. The [~~secretary of state~~] **person serving such process** shall [~~promptly~~] send [~~one of~~] such [~~copies~~] **process** by [~~registered~~] **certified** mail, return receipt requested, to the nonresident broker or nonresident salesman at the post office address of his main office as set forth in the last application filed by him.

§ 79. Subdivision 2 of section 203 of the tax law, as amended by chapter 100 of the laws of 1964, is amended to read as follows:

2. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] **a person** shall mail a copy of any such process against the corporation which may be served upon [~~him~~] **the secretary of state**. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed [~~the secretary of state~~] **a person serving process** to mail copies of process served upon [~~him~~] **the secretary of state** to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation [~~the secretary of state~~] **a person serving process** shall mail copies of process thereafter served upon [~~him~~] **the secretary of state** to the

address set forth in such certificate. Any such corporation, from time to time, may change the address to which [~~the secretary of state~~] **a person** is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] **a copy** thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] **a person serving such process** shall forthwith send by [~~registered~~] **certified** mail, return receipt requested, [~~one of such copies~~] **a duplicate copy** to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 80. Section 216 of the tax law, as added by chapter 415 of the laws of 1944, the opening paragraph as amended by chapter 100 of the laws of 1964 and redesignated by chapter 613 of the laws of 1976, is amended to read as follows:

§ 216. Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] **a person** shall mail a copy of any such process against the corporation which may be served upon [~~him~~] **the secretary of state**. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed [~~the secretary of state~~] **a person** to mail [~~copies~~] **a copy** of process served upon [~~him~~] **the secretary of state** to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such

corporation [~~the secretary of state~~] a person serving such process shall mail [~~copies~~] a copy of process thereafter served upon [~~him~~] a person serving such process to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] a copy thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] a person serving such process shall forthwith send by [~~registered~~] certified mail, return receipt requested, [~~one of such copies~~] a duplicate copy to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 81. Subdivisions (a) and (b) of section 310 of the tax law, as added by chapter 400 of the laws of 1983, are amended to read as follows:

(a) Designation for service of process.--Every petroleum business which is a corporation, except such a petroleum business having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which [~~the secretary of state~~] a person shall mail a copy of any such process against such petroleum business which may be served upon [~~him~~] the secretary of state. In case any such petroleum business shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed such a petroleum business shall be deemed to have directed [~~the secretary of state~~] a person to mail copies of process served upon [~~him~~] the secretary of state to such petroleum business at its last known office address within or without the state. When a certificate of designation has been filed by such

a petroleum business [~~the secretary of state~~] a person serving process shall mail copies of process thereafter served upon [~~him~~] the secretary of state to the address set forth in such certificate. Any such petroleum business, from time to time, may change the address to which [~~the secretary of state~~] a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided.

(b) Service of process.--Service of process upon any petroleum business which is a corporation (including any such petroleum business having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law), in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] a copy thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] a person serving process shall forthwith send by [~~registered~~] certified mail, return receipt requested, [~~one of such copies~~] a duplicate copy to such petroleum business at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such petroleum business, or the officer performing corresponding functions under another name, or a director or managing agent of such petroleum business, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 82. This act shall take effect on the one hundred twentieth day after it shall have become a law.

PART U

Section 1. Section 970-r of the general municipal law, as added by section 1 of part F of chapter 1 of the laws of 2003, subdivision 1, paragraph f of subdivision 3 and paragraph h of subdivision 6 as amended by section 1 of part F of chapter 577 of the laws of 2004, paragraph a of subdivision 1 as amended and paragraph h of subdivision 1 as added by chapter 386 of the laws of 2007, paragraph i of subdivision 1 as added and paragraph e of subdivision 1, paragraph a of subdivision 2, paragraph d of subdivision 2, the opening paragraph of paragraph e of subdivision 2, subparagraph 6 of paragraph e of subdivision 2, paragraph f of subdivision 2, paragraph g of subdivision 2, paragraph b of subdivision 3, the opening paragraph of paragraph f of subdivision 3, subparagraph 6 of paragraph f of subdivision 3, paragraph g of subdivision 3, paragraph h of subdivision 3, paragraph i of subdivision 3, and subdivisions 7 and 9 as amended by chapter 390 of the laws of 2008, paragraph b of subdivision 2 as amended by section 26 and subparagraphs 2 and 5 of paragraph c of subdivision 2 as amended by section 27, paragraph a of subdivision 3 as amended by section 28, subparagraphs 2 and 5 of paragraph e of subdi-

vision 3 and subdivision 4 as amended by section 29, paragraph a and subparagraphs 2 and 5 of paragraph e of subdivision 6 as amended by section 30 and subdivision 10 as added by section 31 of part BB of chapter 56 of the laws of 2015, is amended to read as follows:

§ 970-r. State assistance for brownfield opportunity areas. 1. Definitions. a. "Applicant" shall mean the municipality, community board and/or community based organization submitting an application in the manner authorized by this section.

b. "Commissioner" shall mean the commissioner of the department of environmental conservation.

c. "Community based organization" shall mean a not-for-profit corporation exempt from taxation under section 501(c)(3) of the internal revenue code whose stated mission is promoting reuse of brownfield sites **or community revitalization** within a specified geographic area in which the community based organization is located; which has twenty-five percent or more of its board of directors residing in the community in such area; and represents a community with a demonstrated financial need. "Community based organization" shall not include any not-for-profit corporation that has caused or contributed to the release or threatened release of a contaminant from or onto the brownfield site, or any not-for-profit corporation that generated, transported, or disposed of, or that arranged for, or caused, the generation, transportation, or disposal of contamination from or onto the brownfield site. This definition shall not apply if more than twenty-five percent of the members, officers or directors of the not-for-profit corporation are or were employed or receiving compensation from any person responsible for a site under title thirteen or title fourteen of article twenty-seven of the environmental conservation law, article twelve of the navigation law or under applicable principles of statutory or common law liability.

d. "Brownfield site" shall have the same meaning as set forth in section 27-1405 of the environmental conservation law.

e. "Department" shall mean the department of state.

f. "Contamination" or "contaminated" shall have the same meaning as provided in section 27-1405 of the environmental conservation law.

g. "Municipality" shall have the same meaning as set forth in subdivision fifteen of section 56-0101 of the environmental conservation law.

h. "Community board" shall have the same meaning as set forth in section twenty-eight hundred of the New York city charter.

i. "Secretary" shall mean the secretary of state.

j. "Nomination" shall mean a study, analysis, outline, and written plan for redevelopment and revitalization of any area wherein one or more known or suspected brownfield sites are located, that contains those elements required by the secretary pursuant to this section, whether or not such nomination was funded pursuant to this section, and that is submitted to the secretary as a prerequisite for brownfield opportunity area designation in accordance with the criteria established by this section.

2. [~~**State assistance for pre-nomination study for brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to prepare a pre-nomination study for a brownfield opportunity area designation. Such financial assistance shall not exceed ninety percent of the costs of such pre-nomination study for any such area.**~~

~~b. Activities eligible to receive such assistance shall include, but are not limited to, the assembly and development of basic information about:~~

~~(1) the borders of the proposed brownfield opportunity area;~~

~~(2) the number and size of known or suspected brownfield sites;~~

~~(3) current and anticipated uses of the properties in the proposed brownfield opportunity area;~~

~~(4) current and anticipated future conditions of groundwater in the proposed brownfield opportunity area;~~

~~(5) known data about the environmental conditions of the properties in the proposed brownfield opportunity area;~~

~~(6) ownership of the properties in the proposed brownfield opportunity area and whether the owners are participating in the brownfield opportunity area planning process; and~~

~~(7) preliminary descriptions of possible remediation strategies, reuse opportunities, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions.~~

~~c. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:~~

~~(1) areas for which the application is a partnered application by a municipality and a community based organization;~~

~~(2) areas with concentrations of known or suspected brownfield sites;~~

~~(3) areas for which the application demonstrates support from a municipality and a community based organization;~~

~~(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and~~

~~(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.~~

~~d. The secretary, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.~~

~~e. Each application for assistance shall be submitted to the secretary in a format, and containing such information, as prescribed by the secretary but shall include, at a minimum, the following:~~

~~(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this subdivision for the evaluation and ranking of assistance applications;~~

~~(2) the processes by which local participation in the development of the application has been sought;~~

~~(3) the process to be carried out with the state assistance including, but not limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of these goals, and the intended process for community participation in the process;~~

~~(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;~~

~~(5) other planning and development initiatives proposed or in progress in the proposed brownfield opportunity area; and~~

~~(6) for each community based organization which is an applicant or a co-applicant, a copy of its determination of tax exempt status issued by the federal internal revenue service pursuant to section 501 of the internal revenue code, a description of the relationship between the community based organization and the area that is the subject of the application, its financial and institutional accountability, its experience in conducting and completing planning initiatives and in working with the local government associated with the proposed brownfield opportunity area.~~

~~f. Prior to making an award for assistance, the secretary shall notify the temporary president of the senate and speaker of the assembly.~~

~~g. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The secretary shall establish terms and conditions for such contracts as the secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available.~~

~~3.~~] State assistance for nominations to designate brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to prepare a nomination for designation of a brownfield opportunity area. Such financial assistance shall not exceed ninety percent of the costs of such nomination for any such area. A nomination study must include sufficient information to designate the brownfield opportunity area. [~~The contents of the nomination study shall be developed based on pre-nomination study information, which shall principally consist of an area-wide study, documenting the historic brownfield uses in the area proposed for designation.~~]

b. An application for such financial assistance shall include an indication of support from owners of brownfield sites in the proposed brownfield opportunity area. All residents and property owners in the proposed brownfield opportunity area shall receive notice in such form and manner as the secretary shall prescribe.

c. No application for such financial assistance shall be considered unless the applicant demonstrates that it has, to the maximum extent practicable, solicited and considered the views of residents of the proposed brownfield opportunity area, the views of state and local officials elected to represent such residents and the local organizations representing such residents.

d. Activities eligible to receive such financial assistance shall include the identification, preparation, creation, development and assembly of information and elements to be included in a nomination for designation of a brownfield opportunity area[~~,~~].

e. A nomination for designation of a brownfield opportunity area shall contain such elements as determined by the secretary of state, including but not limited to:

(1) the borders of the proposed brownfield opportunity area;

(2) [~~the~~] **an inventory of known or suspected brownfield sites, including** location **and size** of each known or suspected brownfield site in the proposed brownfield opportunity area;

(3) the identification of strategic sites within the proposed brownfield opportunity area;

(4) the type of potential developments anticipated for sites within the proposed brownfield opportunity area proposed by either the current or the prospective owners of such sites;

(5) local legislative or regulatory action which may be required to implement a plan for the redevelopment of the proposed brownfield opportunity area;

(6) priorities for public and private investment in infrastructure, open space, economic development, housing, or community facilities in the proposed brownfield opportunity area;

(7) **identification, discussion, and** mapping of current and anticipated uses of the properties and groundwater in the proposed brownfield opportunity area;

(8) existing detailed assessments of individual brownfield sites and, where the consent of the site owner has been obtained, the need for conducting on-site assessments;

(9) known data about the environmental conditions of properties in the proposed brownfield opportunity area;

(10) ownership of the **known or suspected brownfield** properties in the proposed brownfield opportunity area;

(11) descriptions of possible remediation strategies, **reuse opportunities,** brownfield redevelopment, necessary infrastructure improvements and other public or private measures needed to stimulate investment, promote revitalization, and enhance community health and environmental conditions;

(12) the goals and objectives, both short term and long term, for the economic revitalization of the proposed brownfield opportunity area; [~~and~~]

(13) the publicly controlled and other developable lands and buildings within the proposed brownfield opportunity area which are or could be made available for residential, industrial and commercial development[~~.~~]**; and**

(14) a community participation strategy to solicit and consider the views of residents, businesses and other stakeholders of the proposed brownfield opportunity area.

[~~e.~~] **f.** Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of known or suspected brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

[~~f.~~] **g.** Each application for such assistance shall be submitted to the secretary in a format, and containing such information, as prescribed by the secretary but shall include, at a minimum, the following:

(1) a statement of the rationale or relationship between the proposed assistance and the criteria set forth in this section for the evaluation and ranking of assistance applications;

(2) the processes by which local participation in the development of the application has been sought;

(3) the process to be carried out under the state assistance including, but not limited to, the goals of and budget for the effort, the work plan and timeline for the attainment of these goals, and the intended process for public participation in the process;

(4) the manner and extent to which public or governmental agencies with jurisdiction over issues that will be addressed in the data gathering process will be involved in this process;

(5) other planning and development initiatives proposed or in progress in the proposed brownfield opportunity area;

(6) for each community based organization which is an applicant or a co-applicant, a copy of its determination of tax exempt status issued by the federal internal revenue service pursuant to section 501 of the internal revenue code, a description of the relationship between the community based organization and the area that is the subject of the application, its financial and institutional accountability, its experience in conducting and completing planning initiatives and in working with the local government associated with the proposed brownfield opportunity area; and

(7) the financial commitments the applicant will make to the brownfield opportunity area for activities including, but not limited to, marketing of the area for business development, human resource services for residents and businesses in the brownfield opportunity area, and services for small and minority and women-owned businesses.

[~~g. The secretary, upon the receipt of an~~] h. An application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall [~~request the municipal government to review and state the municipal government's support or lack of support~~] include a statement of support from the city, town, or village with planning and land use authority in which the brownfield opportunity area is proposed. The [~~municipal government's~~] statement from such city, town, or village shall be considered a part of the application.

[~~h.~~] i. Prior to making an award for assistance, the secretary shall notify the temporary president of the senate and speaker of the assembly.

[~~i.~~] j. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The secretary shall establish terms and conditions for such contracts as the secretary deems appropriate, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments toward any actual project costs incurred by the applicant.

3. State assistance for activities to advance brownfield opportunity area revitalization. Within amounts appropriated therefor, the secretary is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, or to community boards to conduct predevelopment and other activities within a designated or proposed brownfield opportunity area to advance the goals and priorities set forth in a nomination as defined pursuant to this section. Such financial assistance shall not exceed ninety percent of the costs of such activities. Activities eligible to receive such assistance shall include: development and implementation of marketing strategies; development of plans and specifications; real estate services; building condition studies; infrastructure analyses; zoning and regulatory updates; environmental, housing and economic studies, analyses and reports; public outreach; building of local capacity; and other activities as determined by the secretary.

4. Designation of brownfield opportunity area. Upon completion of a nomination for designation of a brownfield opportunity area, it shall be forwarded by the applicant to the secretary, who shall determine whether it is consistent with the provisions of this section. The secretary may review and approve a nomination for designation of a brownfield opportunity area at any time. If the secretary determines that the nomination is consistent with the provisions of this section, the brownfield opportunity area shall be designated. If the secretary determines that the nomination is not consistent with the provisions of this section, the secretary shall make recommendations in writing to the applicant of the manner and nature in which the nomination should be amended.

5. Priority and preference. The designation of a brownfield opportunity area pursuant to this section is intended to serve as a planning tool. It alone shall not impose any new obligations on any property or property owner. To the extent authorized by law, projects in brownfield opportunity areas designated pursuant to this section shall receive a priority and preference when considered for financial assistance pursuant to articles fifty-four and fifty-six of the environmental conservation law. To the extent authorized by law, projects in brownfield opportunity areas designated pursuant to this section may receive a priority and preference when considered for financial assistance pursuant to any other state, federal or local law.

6. State assistance for brownfield site assessments in brownfield opportunity areas. a. Within the limits of appropriations therefor, the secretary of state, is authorized to provide, on a competitive basis, financial assistance to municipalities, to community based organizations, to community boards, or to municipalities and community based organizations acting in cooperation to conduct brownfield site assessments. Such financial assistance shall not exceed ninety percent of the costs of such brownfield site assessment.

b. Brownfield sites eligible for such assistance must be owned by a municipality, or volunteer as such term is defined in section 27-1405 of the environmental conservation law.

c. Brownfield site assessment activities eligible for funding include, but are not limited to, testing of properties to determine the nature and extent of the contamination (including soil and groundwater), environmental assessments, the development of a proposed remediation strategy to address any identified contamination, and any other activities deemed appropriate by the commissioner in consultation with the secretary of state. Any environmental assessment shall be subject to the review and approval of such commissioner.

d. Applications for such assistance shall be submitted to the commissioner in a format, and containing such information, as prescribed by the commissioner in consultation with the secretary of state.

e. Funding preferences shall be given to applications for such assistance that relate to areas having one or more of the following characteristics:

(1) areas for which the application is a partnered application by a municipality and a community based organization;

(2) areas with concentrations of known or suspected brownfield sites;

(3) areas for which the application demonstrates support from a municipality and a community based organization;

(4) areas showing indicators of economic distress including low resident incomes, high unemployment, high commercial vacancy rates, depressed property values; and

(5) areas with known or suspected brownfield sites presenting strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

f. The commissioner, upon the receipt of an application for such assistance from a community based organization not in cooperation with the local government having jurisdiction over the proposed brownfield opportunity area, shall request the municipal government to review and state the municipal government's support or lack of support. The municipal government's statement shall be considered a part of the application.

g. Prior to making an award for assistance, the commissioner shall notify the temporary president of the senate and the speaker of the assembly.

h. Following notification to the applicant that assistance has been awarded, and prior to disbursement of funds, a contract shall be executed between the department and the applicant or co-applicants. The commissioner shall establish terms and conditions for such contracts as the commissioner deems appropriate in consultation with the secretary of state, including provisions to define: applicant's work scope, work schedule, and deliverables; fiscal reports on budgeted and actual use of funds expended; and requirements for submission of a final fiscal report. The contract shall also require the distribution of work products to the department, and, for community based organizations, to the applicant's municipality. Applicants shall be required to make the results publicly available. Such contract shall further include a provision providing that if any responsible party payments become available to the applicant, the amount of such payments attributable to expenses paid by the award shall be paid to the department by the applicant; provided that the applicant may first apply such responsible party payments towards actual project costs incurred by the applicant.

7. Amendments to designated area. Any proposed amendment to a brownfield opportunity area designated pursuant to this section shall be proposed, and reviewed by the secretary, in the same manner and using the same criteria set forth in this section and applicable to an initial nomination for the designation of a brownfield opportunity area.

8. Applications **for brownfield opportunity area designation**. [~~a.~~] All applications for [~~pre-nomination study assistance or applications for~~] designation of a brownfield opportunity area shall demonstrate that the following community participation activities have been [~~or will be~~] performed [~~by the applicant~~] **in development of the nomination**:

(1) identification of the interested public and preparation of a contact list;

(2) identification of major issues of public concern;

(3) [~~provision to~~] public access to (i) the [~~draft and final application for pre-nomination assistance and~~] nomination for designation of the brownfield opportunity area [~~designation~~], and (ii) any supporting documents in a manner [~~convenient to the public~~] as the secretary shall prescribe;

(4) public notice and newspaper notice of (i) the intent of the municipality and/or community based organization to [~~undertake a pre-nomination process or prepare~~] nominate a brownfield opportunity area [~~plan~~] for designation, and (ii) the availability of such application[~~.~~

~~b. Application for nomination of a brownfield opportunity area shall provide the following minimum community participation activities:~~];

[~~(1)~~] (5) a comment period of at least thirty days on a draft application; and

[~~(2)~~] (6) a public meeting on a brownfield opportunity area [~~draft~~] application for designation.

9. Financial assistance; advance payment. Notwithstanding any other law to the contrary, financial assistance pursuant to this section provided by the commissioner and the secretary pursuant to an executed contract may include an advance payment up to twenty-five percent of the contract amount.

10. The secretary shall establish criteria for brownfield opportunity area conformance determinations for purposes of the brownfield redevelopment tax credit component pursuant to clause (ii) of subparagraph (B) of paragraph [~~(5)~~] five of subdivision (a) of section twenty-one of the tax law. In establishing criteria, the secretary shall be guided by, but not limited to, the following considerations: how the proposed use and development advances the designated brownfield opportunity area plan's vision statement, goals and objectives for revitalization; how the density of development and associated buildings and structures advances the plan's objectives, desired redevelopment and priorities for investment; and how the project complies with zoning and other local laws and standards to guide and ensure appropriate use of the project site.

§ 2. This act shall take effect immediately.

PART V

Section 1. Section 159-j of the executive law is REPEALED.

§ 2. This act shall take effect October 1, 2018.

PART W

Section 1. This act enacts into law major components of legislation relating to student loan servicers and student debt relief consultants. Each component is wholly contained within a Subpart identified as Subparts A through C. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found.

SUBPART A

Section 1. The banking law is amended by adding a new article 14-A to read as follows:

ARTICLE XIV-A
STUDENT LOAN SERVICERS

Section 710. Definitions.
711. Licensing.
712. Application for a student loan servicer license; fees.
713. Application process to receive license to engage in the business of student loan servicing.
714. Changes in officers and directors.
715. Changes in control.
716. Grounds for suspension or revocation of license.
717. Books and records; reports and electronic filing.
718. Rules and regulations.
719. Prohibited practices.
720. Servicing student loans without a license.
721. Responsibilities.
722. Examinations.
723. Penalties for violation of this article.
724. Severability of provisions.
725. Compliance with other laws.

§ 710. Definitions. 1. "Applicant" shall mean any person applying for a license to be a student loan servicer.

2. "Borrower" shall mean any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

3. "Borrower benefit" shall mean an incentive offered to a borrower in connection with the origination of a student loan, including but not limited to an interest rate reduction, principal rebate, fee waiver or rebate, loan cancellation, or cosigner release.

4. "Exempt organization" shall mean any banking organization, foreign banking corporation, national bank, federal savings association, federal credit union, or any bank, trust company, savings bank, savings and loan association, or credit union organized under the laws of any other state, or any person licensed or supervised by the department exempted by the superintendent pursuant to regulations promulgated in accordance with this article.

5. "Person" shall mean any individual, association, corporation, limited liability company, partnership, trust, unincorporated organization, government, and any other entity.

6. "Servicer" or "student loan servicer" shall mean a person licensed pursuant to section seven hundred eleven of this article to engage in the business of servicing any student loan of a borrower.

7. "Servicing" shall mean:

(a) receiving any payment from a borrower pursuant to the terms of any student loan;

(b) applying any payment to a borrower's account pursuant to the terms of a student loan or the contract governing the servicing of any such loan;

(c) providing any notification of amounts owed on a student loan by or on account of any borrower;

(d) during a period when a borrower is not required to make a payment on a student loan, maintaining account records for the student loan and communicating with the borrower regarding the student loan on behalf of the owner of the student loan promissory note;

(e) interacting with a borrower with respect to or regarding any attempt to avoid default on the borrower's student loan, or facilitating the activities described in paragraph (a) or (b) of this subdivision; or

(f) performing other administrative services with respect to a borrower's student loan.

8. "Student loan" shall mean any loan to a borrower to finance postsecondary education or expenses related to postsecondary education.

§ 711. Licensing. 1. No person shall engage in the business of servicing student loans owed by one or more borrowers residing in this state without first being licensed by the superintendent as a student loan servicer in accordance with this article and such regulations as may be prescribed by the superintendent.

2. The licensing provisions of this subdivision shall not apply to any exempt organization; provided that such exempt organization notifies the superintendent that it is acting as a student loan servicer in this state and complies with sections seven hundred nineteen and seven hundred twenty-one of this article and any regulation applicable to student loan servicers promulgated by the superintendent.

§ 712. Application for a student loan servicer license; fees. 1. The application for a license to be a student loan servicer shall be in writing, under oath, and in the form prescribed by the superintendent. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that an application for a license or any other submission or application for approval as may be required by this article be made or executed by electronic means if he or she deems it necessary to ensure the efficient and effective administration of this article. The application shall include a description of the activities of the applicant, in such detail and for such periods as the superintendent may require, including:

(a) an affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent, and access to such credit as may be required by the superintendent;

(b) a financial statement prepared by a certified public accountant, the accuracy of which is sworn to under oath before a notary public by an officer or other representative of the applicant who is authorized to execute such documents;

(c) an affirmation that the applicant, or its members, officers, partners, directors and principals as may be appropriate, are at least twenty-one years of age;

(d) information as to the character, fitness, financial and business responsibility, background and experiences of the applicant, or its members, officers, partners, directors and principals as may be appropriate;

(e) any additional detail or information required by the superintendent.

2. An application to become a student loan servicer or any application with respect to a student loan servicer shall be accompanied by a fee as prescribed pursuant to section eighteen-a of this chapter.

§ 713. Application process to receive license to engage in the business of student loan servicing. 1. Upon the filing of an application for a license, if the superintendent shall find that the financial responsibility, experience, character, and general fitness of the applicant and, if applicable, the members, officers, partners, directors and principals of the applicant are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article, the superinten-

dent shall thereupon issue a license in duplicate to engage in the business of servicing student loans described in section seven hundred ten of this article in accordance with the provisions of this article. If the superintendent shall not so find, the superintendent shall not issue a license, and the superintendent shall so notify the applicant. The superintendent shall transmit one copy of a license to the applicant and file another in the office of the department. Upon receipt of such license, a student loan servicer shall be authorized to engage in the business of servicing student loans in accordance with the provisions of this article. Such license shall remain in full force and effect until it is surrendered by the servicer or revoked or suspended as hereinafter provided.

2. The superintendent may refuse to issue a license pursuant to this article if he or she shall find that the applicant, or any person who is a director, officer, partner, agent, employee, member, substantial stockholder of the applicant:

(a) has been convicted of a crime involving an activity which is a felony under this chapter or under article one hundred fifty-five, one hundred seventy, one hundred seventy-five, one hundred seventy-six, one hundred eighty, one hundred eighty-five, one hundred eighty-seven, one hundred ninety, two hundred, two hundred ten or four hundred seventy of the penal law or any comparable felony under the laws of any other state or the United States, provided that such crime would be a felony if committed and prosecuted under the laws of this state;

(b) has had a license or registration revoked by the superintendent or any other regulator or jurisdiction;

(c) has been an officer, director, partner, member or substantial stockholder of an entity which has had a license or registration revoked by the superintendent or any other regulator or jurisdiction; or

(d) has been an agent, employee, officer, director, partner or member of an entity which has had a license or registration revoked by the superintendent where such person shall have been found by the superintendent to bear responsibility in connection with the revocation.

3. The term "substantial stockholder", as used in this subdivision, shall be deemed to refer to a person owning or controlling directly or indirectly ten per centum or more of the total outstanding stock of a corporation.

§ 714. Changes in officers and directors. Upon any change of any of the executive officers, directors, partners or members of any student loan servicer, the student loan servicer shall submit to the superintendent the name, address, and occupation of each new officer, director, partner or member, and provide such other information as the superintendent may require.

§ 715. Changes in control. 1. It shall be unlawful, except with the prior approval of the superintendent, for any action to be taken which results in a change of control of the business of a student loan servicer. Prior to any change of control, the person desirous of acquiring control of the business of a student loan servicer shall make written application to the superintendent and pay an investigation fee as prescribed pursuant to section eighteen-a of this chapter to the superintendent. The application shall contain such information as the superintendent, by rule or regulation, may prescribe as necessary or appropriate for the purpose of making the determination required by subdivision two of this section. This information shall include, but not be limited to, the information and other material required for a student

loan servicer by subdivision one of section seven hundred twelve of this article.

2. The superintendent shall approve or disapprove the proposed change of control of a student loan servicer in accordance with the provisions of section seven hundred thirteen of this article.

3. For a period of six months from the date of qualification thereof and for such additional period of time as the superintendent may prescribe, in writing, the provisions of subdivisions one and two of this section shall not apply to a transfer of control by operation of law to the legal representative, as hereinafter defined, of one who has control of a student loan servicer. Thereafter, such legal representative shall comply with the provisions of subdivisions one and two of this section. The provisions of subdivisions one and two of this section shall be applicable to an application made under this section by a legal representative. The term "legal representative", for the purposes of this subdivision, shall mean a person duly appointed by a court of competent jurisdiction to act as executor, administrator, trustee, committee, conservator or receiver, including one who succeeds a legal representative and one acting in an ancillary capacity thereto in accordance with the provisions of such court appointment.

4. As used in this section the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a student loan servicer, whether through the ownership of voting stock of such student loan servicer, the ownership of voting stock of any person which possesses such power or otherwise. Control shall be presumed to exist if any person, directly or indirectly, owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer or of any person which owns, controls or holds with power to vote ten per centum or more of the voting stock of any student loan servicer, but no person shall be deemed to control a student loan servicer solely by reason of being an officer or director of such student loan servicer. The superintendent may in his discretion, upon the application of a student loan servicer or any person who, directly or indirectly, owns, controls or holds with power to vote or seeks to own, control or hold with power to vote any voting stock of such student loan servicer, determine whether or not the ownership, control or holding of such voting stock constitutes or would constitute control of such student loan servicer for purposes of this section.

§ 716. Grounds for suspension or revocation of license. 1. After notice and a hearing, the superintendent may revoke any license to engage in the business of a student loan servicer issued pursuant to this article if he or she shall find that:

(a) a servicer has violated any provision of this article, any rule or regulation promulgated by the superintendent under and within the authority of this article, or any other applicable law;

(b) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the superintendent refusing originally to issue such license;

(c) a servicer does not cooperate with an examination or investigation by the superintendent;

(d) a servicer engages in fraud, intentional misrepresentation, or gross negligence in servicing a student loan;

(e) the competence, experience, character, or general fitness of the servicer, an individual controlling, directly or indirectly, ten percent or more of the outstanding interests, or any person responsible for

servicing a student loan for the servicer indicates that it is not in the public interest to permit the servicer to continue servicing student loans;

(f) the servicer engages in an unsafe or unsound practice;

(g) the servicer is insolvent, suspends payment of its obligations, or makes a general assignment for the benefit of its creditors; or

(h) a servicer has violated the laws of this state, any other state or any federal law involving fraudulent or dishonest dealing, or a final judgment has been entered against a student loan servicer in a civil action upon grounds of fraud, misrepresentation or deceit.

2. The superintendent may, on good cause shown, or where there is a substantial risk of public harm, suspend any license for a period not exceeding thirty days, pending investigation. "Good cause", as used in this subdivision, shall exist when a student loan servicer has defaulted or is likely to default in performing its financial engagements or engages in dishonest or inequitable practices which may cause substantial harm to the persons afforded the protection of this article.

3. Except as provided in subdivision two of this section, no license shall be revoked or suspended except after notice and a hearing thereon. Any order of suspension issued after notice and a hearing may include as a condition of reinstatement that the student loan servicer make restitution to consumers of fees or other charges which have been improperly charged or collected, including but not limited to by allocating payments contrary to a borrower's direction or in a manner that fails to help a borrower avoid default, as determined by the superintendent. Any hearing held pursuant to the provisions of this section shall be noticed, conducted and administered in compliance with the state administrative procedure act.

4. Any student loan servicer may surrender any license by delivering to the superintendent written notice that it thereby surrenders such license, but such surrender shall not affect the servicer's civil or criminal liability for acts committed prior to such surrender. If such surrender is made after the issuance by the superintendent of a statement of charges and notice of hearing, the superintendent may proceed against the servicer as if the surrender had not taken place.

5. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the student loan servicer and any person, including the department.

6. Every license issued pursuant to this article shall remain in force and effect until the same shall have been surrendered, revoked or suspended in accordance with any other provisions of this article.

7. Whenever the superintendent shall revoke or suspend a license issued pursuant to this article, he or she shall forthwith execute in duplicate a written order to that effect. The superintendent shall file one copy of such order in the office of the department and shall forthwith serve the other copy upon the student loan servicer. Any such order may be reviewed in the manner provided by article seventy-eight of the civil practice law and rules.

§ 717. Books and records; reports and electronic filing. 1. Each student loan servicer and exempt organization shall keep and use in its business such books, accounts and records as will enable the superintendent to determine whether the servicer or exempt organization is complying with the provisions of this article and with the rules and regulations lawfully made by the superintendent. Every servicer and exempt organization shall preserve such books, accounts, and records, for at least three years.

2. (a) Each student loan servicer shall annually, on or before a date to be determined by the superintendent, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of such servicer under authority of this article. Such report shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

(b) In addition to annual reports, the superintendent may require such additional regular or special reports as he or she may deem necessary to the proper supervision of student loan servicers under this article. Such additional reports shall be subscribed and affirmed as true by the servicer under the penalties of perjury and shall be in the form prescribed by the superintendent.

3. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that any submission or approval as may be required by the superintendent be made or executed by electronic means if he or she deems it necessary to ensure the efficient administration of this article.

§ 718. Rules and regulations. 1. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article, including, but not limited to:

(a) Such rules and regulations in connection with the activities of student loan servicers and exempt organizations as may be necessary and appropriate for the protection of borrowers in this state.

(b) Such rules and regulations as may be necessary and appropriate to define unfair, deceptive or abusive acts or practices in connection with the activities of student loan servicers and exempt organizations in servicing student loans.

(c) Such rules and regulations as may define the terms used in this article and as may be necessary and appropriate to interpret and implement the provisions of this article.

(d) Such rules and regulations as may be necessary for the enforcement of this article.

2. The superintendent is hereby authorized and empowered to make such specific rulings, demands and findings as the superintendent may deem necessary for the proper conduct of the student loan servicing industry.

§ 719. Prohibited practices. No student loan servicer shall:

1. Employ any scheme, device or artifice to defraud or mislead a borrower.

2. Engage in any unfair, deceptive or predatory act or practice toward any person or misrepresent or omit any material information in connection with the servicing of a student loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan.

3. Misapply payments to the outstanding balance of any student loan or to any related interest or fees.

4. Provide inaccurate information to a consumer reporting agency.

5. Refuse to communicate with an authorized representative of the borrower who provides a written authorization signed by the borrower, provided that the servicer may adopt procedures reasonably related to

verifying that the representative is in fact authorized to act on behalf of the borrower.

6. Make any false statement or make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the superintendent or another governmental agency.

§ 720. Servicing student loans without a license. 1. Whenever, in the opinion of the superintendent, a person is engaged in the business of servicing student loans, either actually or through subterfuge, without a license from the superintendent, the superintendent may order that person to desist and refrain from engaging in the business of servicing student loans in the state. If, within thirty days after an order is served, a request for a hearing is filed in writing and the hearing is not held within sixty days of the filing, the order shall be rescinded.

2. This section shall not apply to exempt organizations.

§ 721. Responsibilities. 1. If a student loan servicer regularly reports information to a consumer reporting agency, the servicer shall accurately report a borrower's payment performance to at least one consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as defined in Section 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a data furnisher by that consumer reporting agency.

2. (a) Except as provided in federal law or required by a student loan agreement, a student loan servicer shall inquire of a borrower how to apply a borrower's nonconforming payment. A borrower's direction on how to apply a nonconforming payment shall remain in effect for any future nonconforming payment during the term of a student loan until the borrower provides different directions.

(b) For purposes of this subdivision, "nonconforming payment" shall mean a payment that is either more or less than the borrower's required student loan payment.

3. (a) If the sale, assignment, or other transfer of the servicing of a student loan results in a change in the identity of the person to whom the borrower is required to send subsequent payments or direct any communications concerning the student loan, a student loan servicer shall transfer all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, to the new student loan servicer servicing the borrower's student loan within forty-five days.

(b) A student loan servicer shall adopt policies and procedures to verify that it has received all information regarding a borrower, a borrower's account, and a borrower's student loan, including but not limited to the borrower's repayment status and any borrower benefits associated with the borrower's student loan, when the servicer obtains the right to service a student loan.

4. If a student loan servicer sells, assigns, or otherwise transfers the servicing of a student loan to a new servicer, the sale, assignment or other transfer shall be completed at least seven days before the borrower's next payment is due.

5. (a) A student loan servicer that sells, assigns, or otherwise transfers the servicing of a student loan shall require as a condition of such sale, assignment or other transfer that the new student loan servicer shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were

represented as being available but for which the borrower had not yet qualified.

(b) A student loan servicer that obtains the right to service a student loan shall honor all borrower benefits originally represented as being available to a borrower during the repayment of the student loan and the possibility of such benefits, including any benefits that were represented as being available but for which the borrower had not yet qualified.

6. A student loan servicer shall respond within thirty days after receipt to a written inquiry from a borrower or a borrower's representative.

7. A student loan servicer shall preserve records of each student loan and all communications with borrowers for not less than two years following the final payment on a student loan or the sale, assignment or other transfer of the servicing of a student loan, whichever occurs first, or such longer period as may be required by any other provision of law.

§ 722. Examinations. 1. The superintendent may at any time, and as often as he or she may determine, either personally or by a person duly designated by the superintendent, investigate the business and examine the books, accounts, records, and files used therein of every student loan servicer. For that purpose the superintendent and his or her duly designated representative shall have free access to the offices and places of business, books, accounts, papers, records, files, safes and vaults of all student loan servicers. The superintendent and any person duly designated by him or her shall have the authority to require the attendance of and to examine under oath all persons whose testimony he or she may require relative to such business.

2. No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

3. The expenses incurred in making any examination pursuant to this section shall be assessed against and paid by the student loan servicer so examined, except that traveling and subsistence expenses so incurred shall be charged against and paid by servicers in such proportions as the superintendent shall deem just and reasonable, and such proportionate charges shall be added to the assessment of the other expenses incurred upon each examination. Upon written notice by the superintendent of the total amount of such assessment, the servicer shall become liable for and shall pay such assessment to the superintendent.

4. In any hearing in which a department employee acting under authority of this chapter is available for cross-examination, any official written report, worksheet, other related papers, or duly certified copy thereof, compiled, prepared, drafted, or otherwise made by such department employee, after being duly authenticated by the employee, may be admitted as competent evidence upon the oath of the employee that such worksheet, investigative report, or other related documents were prepared as a result of an examination of the books and records of a servicer or other person, conducted pursuant to the authority of this chapter.

5. Unless otherwise exempt pursuant to subdivision two of section seven hundred eleven of this article, affiliates of a student loan servicer are subject to examination by the superintendent on the same terms as the servicer, but only when reports from, or examination of, a servicer provides evidence of unlawful activity between a servicer and

affiliate benefitting, affecting, or arising from the activities regulated by this article.

§ 723. Penalties for violation of this article. 1. In addition to such penalties as may otherwise be applicable by law, the superintendent may, after notice and hearing, require any person found violating the provisions of this article or the rules or regulations promulgated hereunder to pay to the people of this state a penalty for each violation of the article or any regulation or policy promulgated hereunder a sum not to exceed an amount as determined pursuant to section forty-four of this chapter for each such violation.

2. Nothing in this article shall limit any statutory or common-law right of any person to bring any action in any court for any act, or the right of the state to punish any person for any violation of any law.

§ 724. Severability of provisions. If any provision of this article, or the application of such provision to any person or circumstance, shall be held invalid, illegal or unenforceable, the remainder of the article, and the application of such provision to persons or circumstances other than those as to which it is held invalid, illegal or unenforceable, shall not be affected thereby.

§ 725. Compliance with other laws. 1. Student loan servicers shall engage in the business of servicing student loans in conformity with the provisions of the financial services law, this chapter, such rules and regulations as may be promulgated by the superintendent thereunder and all applicable federal laws and the rules and regulations promulgated thereunder.

2. Nothing in this section shall be construed to limit any otherwise applicable state or federal law or regulations.

§ 2. Subdivision 10 of section 36 of the banking law, as amended by chapter 182 of the laws of 2011, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, any other person or entity subject to supervision under this chapter, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulato-

ry agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 3. Subdivisions 1, 2, 3 and 5 of section 39 of the banking law, subdivisions 1, 2 and 5 as amended by chapter 123 of the laws of 2009 and subdivision 3 as amended by chapter 155 of the laws of 2012, are amended to read as follows:

1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, he or she may, in his or her discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before him or her, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, he or she may, in his or her discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before him or her to present any explanation in defense of the practices directed in said order to be discontinued.

3. To make good impairment of capital or to ensure compliance with financial requirements. Whenever it shall appear to the superintendent

that the capital or capital stock of any banking organization, bank holding company or any subsidiary thereof which is organized, licensed or registered pursuant to this chapter, is impaired, or the financial requirements imposed by subdivision one of section two hundred two-b of this chapter or any regulation of the superintendent on any branch or agency of a foreign banking corporation or the financial requirements imposed by this chapter or any regulation of the superintendent on any licensed lender, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner or private banker are not satisfied, the superintendent may, in the superintendent's discretion, issue an order directing that such banking organization, bank holding company, branch or agency of a foreign banking corporation, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or private banker make good such deficiency forthwith or within a time specified in such order.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable him or her to readily ascertain its true condition, he or she may, in his or her discretion, issue an order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, **licensed student loan servicer,** registered mortgage loan servicer, licensed mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

§ 4. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 155 of the laws of 2012, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, **licensed student loan servicer,** registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any

application or request, or any written agreement entered into with the superintendent.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART B

Section 1. The financial services law is amended by adding a new article 7 to read as follows:

ARTICLE 7
STUDENT DEBT CONSULTANTS

Section 701. Definitions.
702. Prohibitions.
703. Disclosure requirements.
704. Student debt consulting contracts.
705. Penalties and other provisions.
706. Rules and regulations.

§ 701. Definitions. (a) The term "advertisement" shall include, but is not limited to, all forms of marketing, solicitation, or dissemination of information related, directly or indirectly, to securing or obtaining a student debt consulting contract or services. Further, it shall include any and all commonly recognized forms of media marketing via television, radio, print media, all forms of electronic communication via the internet, and all prepared sales presentations given in person or over the internet to the general public.

(b) "Borrower" means any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

(c) "FSA ID" means a username and password allocated to an individual by the federal government to enable the individual to log in to certain United States department of education websites, and may be used to sign certain documents electronically.

(d) "Student loan" means any loan to a borrower to finance post-secondary education or expenses related to post-secondary education.

(e) "Student debt consulting contract" or "contract" means an agreement between a borrower and a consultant under which the consultant agrees to provide student debt consulting services.

(f) "Student debt consultant" or "consultant" means an individual or a corporation, partnership, limited liability company or other business entity that, directly or indirectly, solicits or undertakes employment to provide student debt consulting services. A consultant does not include the following:

(1) a person or entity who holds or is owed an obligation on the student loan while the person or entity performs services in connection with the student loan;

(2) a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company, credit union or insurance company organized under the laws of this state, another state or the United States, or a subsidiary or affiliate of such entity or a foreign banking corporation licensed by the superintendent of financial services or the comptroller of the currency;

(3) a bona fide not-for-profit organization that offers counseling or advice to borrowers; or

(4) such other persons as the superintendent prescribes or interprets by rule.

(g) "Student debt consulting services" means services that a student debt consultant provides to a borrower that the consultant represents will help to achieve any of the following:

(1) stop, enjoin, delay, void, set aside, annul, stay or postpone a default, bankruptcy, tax offset, or garnishment proceeding;

(2) obtain a forbearance, deferment, or other relief that temporarily halts repayment of a student loan;

(3) assist the borrower with preparing or filing documents related to student loan repayment;

(4) advise the borrower which student loan repayment plan or forgiveness program to consider;

(5) enroll the borrower in any student loan repayment, forgiveness, discharge, or consolidation program;

(6) assist the borrower in re-establishing eligibility for federal student financial assistance;

(7) assist the borrower in removing a student loan from default; or

(8) educate the borrower about student loan repayment.

§ 702. Prohibitions. A student debt consultant is prohibited from doing the following:

(a) performing student debt consulting services without a written, fully executed contract with a borrower;

(b) charging for or accepting any payment for student debt consulting services before the full completion of all such services, including a payment to be placed in escrow or any other account pending the completion of such services;

(c) taking a power of attorney from a borrower;

(d) retaining any original loan document or other original document related to a borrower's student loan;

(e) requesting that a borrower provide his or her FSA ID to the consultant, or accepting a borrower's FSA ID;

(f) stating or implying that a borrower will not be able to obtain relief on their own;

(g) misrepresenting, expressly or by implication, that:

(1) the consultant is a part of, affiliated with, or endorsed or sponsored by the government, government loan programs, the United States department of education, or borrowers' student loan servicers; or

(2) some or all of a borrower's payments to the consultant will be applied towards the borrower's student loans.

(h) inducing or attempting to induce a student debtor to enter a contract that does not fully comply with the provisions of this article; or

(i) engaging in any unfair, deceptive, or abusive act or practice.

§ 703. Disclosure requirements. (a) A student debt consultant shall clearly and conspicuously disclose in all advertisements:

(1) the actual services the consultant provides to borrowers;

(2) that borrowers can apply for and obtain consolidation loans from the United States department of education at no cost, including providing a direct link in all written advertising to the application materials for a Direct Consolidation Loan from the U.S. department of education;

(3) that consolidation or other services offered by the consultant may not be the best or only option for borrowers;

(4) that a borrower may obtain alternative federal student loan repayment plans, including income-based programs, without consolidating existing federal student loans; and

(5) that borrowers should consider consulting their student loan servicer before signing any legal document concerning a student loan.

(b) The disclosures required by subsection (a) of this section, if disseminated through print media or the internet, shall be clearly and legibly printed or displayed in not less than twelve-point bold type, or, if the advertisement is printed to be displayed in print that is smaller than twelve point, in bold type print that is no smaller than the print in which the text of the advertisement is printed or displayed.

(c) The provisions of this section shall apply to all consultants who disseminate advertisements in the state of New York or who intend to directly or indirectly contact a borrower who has a student loan and is in New York state. Consultants shall establish and at all times maintain control over the content, form and method of dissemination of all advertisements of their services. Further, all advertisements shall be sufficiently complete and clear to avoid the possibility of deception or the ability to mislead or deceive.

§ 704. Student debt consulting contracts. (a) A student debt consulting contract shall:

(1) contain the entire agreement of the parties;

(2) be provided in writing to the borrower for review before signing;

(3) be printed in at least twelve-point type and written in the same language that is used by the borrower and was used in discussions between the consultant and the borrower to describe the borrower's services or to negotiate the contract;

(4) fully disclose the exact nature of the services to be provided by the consultant or anyone working in association with the consultant;

(5) fully disclose the total amount and terms of compensation for such services;

(6) contain the name, business address and telephone number of the consultant and the street address, if different, and facsimile number or email address of the consultant where communications from the debtor may be delivered;

(7) be dated and personally signed by the borrower and the consultant and be witnessed and acknowledged by a New York notary public; and

(8) contain the following notice, which shall be printed in at least fourteen-point boldface type, completed with the name of the Provider, and located in immediate proximity to the space reserved for the debtor's signature:

"NOTICE REQUIRED BY NEW YORK LAW

You may cancel this contract, without any penalty or obligation, at any time before midnight of

..... (fifth business day after execution).

..... (Name of consultant) (the "Consultant") or anyone working for the Consultant may not take any money from you or ask you for money until the consultant has completely finished doing everything this Contract says the Consultant will do.

You should consider contacting your student loan servicer before signing any legal document concerning your student loan. In addition, you may want to visit the New York State Department of Financial Services' student lending resource center at www.dfs.ny.gov/studentprotection. The law requires that this contract contain the entire agreement between you

and the Provider. You should not rely upon any other written or oral agreement or promise."

The Provider shall accurately enter the date on which the right to cancel ends.

(b) (1) The borrower has the right to cancel, without any penalty or obligation, any contract with a consultant until midnight of the fifth business day following the day on which the consultant and the borrower sign a consulting contract. Cancellation occurs when the borrower, or a representative of the borrower, either delivers written notice of cancellation in person to the address specified in the consulting contract or sends a written communication by facsimile, by United States mail or by an established commercial letter delivery service. A dated proof of facsimile delivery or proof of mailing creates a presumption that the notice of cancellation has been delivered on the date the facsimile is sent or the notice is deposited in the mail or with the delivery service. Cancellation of the contract shall release the borrower from all obligations to pay fees or any other compensation to the consultant.

(2) The contract shall be accompanied by two copies of a form, captioned "notice of cancellation" in at least twelve-point bold type. This form shall be attached to the contract, shall be easily detachable, and shall contain the following statement written in the same language as used in the contract, and the contractor shall insert accurate information as to the date on which the right to cancel ends and the contractor's contact information:

"NOTICE OF CANCELLATION

Note: You may cancel this contract, without any penalty or obligation, at any time before midnight of (Enter date)

To cancel this contract, sign and date both copies of this cancellation notice and personally deliver one copy or send it by facsimile, United States mail, or an established commercial letter delivery service, indicating cancellation to the Consultant at one of the following:

Name of Consultant

Street Address

City, State, Zip

Facsimile:

I hereby cancel this transaction.

Name of Borrower:

Signature of Borrower:

Date: "

(3) Within ten days following receipt of a notice of cancellation given in accordance with this subsection, the consultant shall return any original contract and any other documents signed by or provided by the borrower. Cancellation shall release the borrower of all obligations to pay any fees or compensation to the consultant.

§ 705. Penalties and other provisions. (a) If the superintendent finds, after notice and hearing, that a consultant has violated any provision of this article, the superintendent may: (1) make null and void any agreement between the borrower and the consultant; and (2) impose a civil penalty of not more than ten thousand dollars for each violation.

(b) If the consultant violates any provision of this article and the borrower suffers damage because of the violation, the borrower may recover actual and consequential damages and costs from the consultant in an action based on this article. If the consultant intentionally or

recklessly violates any provision of this article, the court may award the borrower treble damages, attorneys' fees and costs.

(c) Any provision of a student debt consulting contract that attempts or purports to limit the liability of the consultant under this article shall be null and void. Inclusion of such provision shall at the option of the borrower render the contract void. Any provision in a contract which attempts or purports to require arbitration of any dispute arising under this article shall be void at the option of the borrower. Any waiver of the provisions of this article shall be void and unenforceable as contrary to public policy.

(d) The provisions of this article are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

§ 706. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.

SUBPART C

Section 1. The education law is amended by adding a new article 13-C to read as follows:

ARTICLE 13-C
STUDENT LOAN DEBTORS

Section 633. No denial of licenses for student loan debtors.

§ 633. No denial of licenses for student loan debtors. 1. Notwithstanding any other provision of law, rule, or regulation to the contrary, any agency, department, office, board, or any other instrumentality of the state authorized to issue professional licenses in the state shall be prohibited from taking any adverse action against any licensee, including but not limited to fine, nonrenewal, suspension, or revocation of a professional license, based upon the status of any student loan obligation of such licensee.

2. Notwithstanding any other provision of law, rule, or regulation to the contrary, any agency, department, office, board, or any other instrumentality of the state authorized to issue professional licenses in the state shall be prohibited from taking any adverse action related to issuance of a professional license against any individual or applicant for a professional license, including but not limited to denial of a professional license or disapproval of an application for a professional license, based upon the status of any student loan obligation of such individual or applicant for a professional license.

3. For purposes of this section "professional license" means authorization, licensure, or certification to practice any professional activity in the state, whether temporary or permanent, issued by any agency, department, office, board, or any other instrumentality of the state.

4. For purposes of this section "student loan" means any loan to a borrower to finance postsecondary education or expenses related to postsecondary education.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or subpart of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or subpart thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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

PART X

Section 1. Section 2 of 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, as amended by section 1 of part P of chapter 58 of the laws of 2016, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed on July 1, [~~2018~~] **2020**; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

§ 2. This act shall take effect immediately.

PART Y

Section 1. Section 3 of part S of chapter 58 of the laws of 2016 amending the New York state urban development corporation act relating to transferring the statutory authority for the promulgation of marketing orders from the department of agriculture and markets to the New York state urban development corporation is amended to read as follows:

§ 3. This act shall take effect on the ninetieth day after it shall have become a law [~~and shall expire and be deemed repealed two years after such date~~]; provided, however, that any assessment due and payable under such marketing orders shall be remitted to the urban development corporation starting 30 days after such effective date.

§ 2. This act shall take effect immediately.

PART Z

Section 1. This act shall be known and may be cited as the "empire forests for the future initiative".

§ 2. Subdivision 9 of section 480 of the real property tax law, as added by chapter 814 of the laws of 1974, is amended to read as follows:

9. No lands shall be classified pursuant to this section after September first, nineteen hundred seventy-four. As to lands classified pursuant to this section prior to such date, the owner thereof may elect to continue to have such lands so classified, subject to all the duties, responsibilities and privileges under this section, or he **or she** may elect to make application for certification pursuant to section four hundred eighty-a hereof **until March first, two thousand nineteen or section four hundred eighty-b of this title**.

§ 3. Section 480-a of the real property tax law, as amended by chapter 428 of the laws of 1987, paragraph (a) of subdivision 1 as amended by chapter 396 of the laws of 2008, subparagraph (ii) of paragraph (a) of subdivision 3 as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, subdivision 4 as amended by chapter 316 of the laws of 1992 and paragraph (b) of subdivision 4 as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, paragraphs (a) and (c) of subdivision 4 as amended by chapter 440 of the laws of 1993 and paragraph (c) of subdivision 4 as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, paragraph (e) of subdivision 7 as amended by chapter 590 of the laws of 1994 and paragraph (i) of subdivision 7 as added by chapter 2 of the laws of 1997, is amended to read as follows:

§ 480-a. Taxation of forest land **under an approved management plan**.

1. As used in this section:

(a) "Approved management plan" shall mean[~~: (i)~~] a plan approved by the department for the management of an eligible tract which shall contain requirements and standards to ensure the continuing production of a merchantable forest crop selected by the owner. Every approved management plan shall set forth requirements and standards relating to stocking, cutting, forest management access, and any specified use of the eligible tract other than for the production of a merchantable forest crop which is desired by the owner and compatible with or supportive of the continuing production of a merchantable forest crop. Such plan shall include provisions accommodating endangered and threatened animals and plants. Such plan must be prepared by or under the direct supervision of a **department approved** forester who may be the owner or an agent of the owner, including an industrial forester or a cooperating consultant forester[~~; or~~

~~(ii) participation in a forest certification program (such as Forest Stewardship Council certification, Sustainable Forestry Initiative; American Tree Farm Program, etc.) recognized in the regulations of the department~~].

(b) "Commitment" shall mean a declaration to the [~~department~~] **assessor and county clerk** made on an annual basis by the owner of a certified eligible tract committing such tract to continued forest crop production for the next succeeding ten years under an approved management plan. **The document on which the commitment is made shall be known as the "commitment form" and shall include the "verification of continued eligibility" as defined by paragraph (i) of this subdivision. A commitment form without a properly completed verification of continued eligibility shall have no legal effect.**

(c) "Cooperating consultant forester" shall mean a qualified forester who, or a qualified forestry consultant firm which, has entered into an agreement with the department under the New York state cooperating consultant foresters program pursuant to section 9-0713 of the environmental conservation law.

(d) "Department" shall mean the department of environmental conservation.

(e) "Eligible tract" shall mean a tract of privately owned forest land of at least fifty contiguous acres, exclusive of any portion thereof not devoted to the production of forest crops. Lands divided by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or similar facilities will be considered contiguous for purposes of this section, unless vehicular access for forest management purposes is precluded. Lands from which a merchantable forest crop

has been cut or removed within three years prior to the time of application for certification under this section will be ineligible unless such cutting or removal was accomplished under a forest management program designed to provide for the continuing production of merchantable forest crops **as determined by the state forester or his or her designee**.

(f) "Forest land" shall mean land exclusively devoted to and suitable for forest crop production through natural regeneration or through forestation and shall be stocked with a stand of forest trees sufficient to produce a merchantable forest crop within thirty years of the time of original certification.

(g) "Merchantable forest crop" shall mean timber or pulpwood, including veneer bolts, sawlogs, poles, posts and fuelwood, that is produced on forest land, has a value in the market and may be sold.

(h) [~~"Stumpage value" shall mean the current market worth of a merchantable forest crop as it stands at the time of sale, cutting, required cutting or removal~~] **"Certificate of eligibility" shall mean a certificate issued by the department to the landowner of an eligible tract that confirms such eligible tract meets all requirements of the approved management plan for the tract**.

(i) "Verification of continued eligibility" shall mean a portion of the commitment form, prescribed by the department, prepared and signed by the landowner which certifies that such landowner continues to satisfy all conditions and requirements of his or her initial enrollment under this section.

2. (a) An owner of an eligible tract may [~~make application~~] **apply** to the department for [~~certification~~] **a certificate of eligibility** under this section on forms prescribed by the department. If the department finds that such tract is an eligible tract it shall forward a certificate of [~~approval~~] **eligibility** to the owner thereof[~~, together with the approved management plan, and a copy of a commitment certified by the department for the eligible tract~~].

(b) The department shall, after public hearings, adopt and promulgate rules and regulations necessary for the implementation of the department's responsibilities pursuant to this section. Such regulations relating to approved management plans or amendments thereto may provide for alternative or contingent requirements and standards based on the size and nature of the tract and other criteria consistent with environmentally and economically sound silvicultural practices.

(c) Any tract certified pursuant hereto shall be subject to the provisions of this section. [~~The~~] **When property is transferred or sold to one or more family members of the landowner and the new owner or owners choose to continue participating in the program as authorized by paragraph (a) of subdivision twelve of this section, the** obligations of this section shall devolve upon and the benefits inure to [~~the~~] **such new** owner[~~, his heirs, successors and assigns~~] **or owners**.

(d) No new or additional tract shall be eligible for certification under an approved management plan after March first, two thousand nineteen.

3. (a) To qualify for a forest land exemption under this section the owner of a certified eligible tract shall:

(i) file the certificate of [~~approval~~] **eligibility** in the office of the clerk of the county or counties in which such tract is situated. Such certificate shall specify that the tract described therein is committed to continued forest crop production **under an approved management plan** for an initial period of ten years. Upon receipt of such certificate, the county clerk shall record the same in the books kept

for the recording of deeds and shall index the same in the deed index against the name of the owner of the property. Until notice of revocation of the certificate of [~~approval~~] eligibility has been recorded and indexed as provided in subdivision seven or eight of this section, a certificate that has been recorded and indexed pursuant to this subdivision shall give notice that the certified tract is subject to the provisions of this section; and

(ii) prior to the taxable status date for the first assessment roll upon which such exemption is sought, file an initial application for exemption with the appropriate assessor on forms prescribed by the commissioner. Such application must be accompanied by a [~~certified commitment~~] certificate of eligibility issued by the department [~~pursuant to subdivision two of this section~~] and the commitment form; and

(iii) prior to the taxable status date for each subsequent assessment roll upon which such exemption is sought, file with the appropriate assessor a [~~certified~~] commitment [~~of~~] form for such tract to continued forest crop production under an approved management plan for the next succeeding ten years [~~under the approved management plan. Application for such commitment shall be made by the owner of such tract to the department, and the commitment shall be certified by the department~~].

(b) If [~~the assessor is satisfied that~~] the requirements of this section are met, [~~he or she~~] the assessor shall approve the application and such eligible tract shall be exempt from taxation pursuant to subdivision four of this section to be effective as of the first taxable status date occurring subsequent to such approval, and shall continue to be so exempt thereafter upon receipt by the assessor of a [~~certified~~] commitment form filed in accordance with subparagraph (iii) of paragraph (a) of this subdivision and so long as the certification of the eligible tract [~~shall~~] has not [~~be~~] been revoked by the department.

(c) Failure on the part of the owner to file the [~~certified~~] commitment form in any year following initial certification will result in the termination of the forest land exemption under this section[~~, if any,~~] applicable to the property for that and succeeding taxable years for which no such commitments are filed. Failure to file a commitment form will not constitute a conversion of the tract or breach of the approved management plan, pursuant to subdivision seven hereof, and the commitment of the property to forest crop production under the approved management plan shall remain in force for the next succeeding nine years following the last taxable year for which a [~~certified~~] commitment form was filed.

(d) Following failure to file a [~~certified~~] commitment form in one or more years, in order to obtain a forest land exemption under this section, an owner of a certified tract may submit a [~~certified~~] commitment form to the assessor before the taxable status date in any subsequent year, except that a new application under paragraph (a) of subdivision two of this section and subparagraph (i) of paragraph (a) of this subdivision also shall be required if more than five years have elapsed since the owner's last [~~certified~~] commitment form was filed. Such new application also shall be required whenever, during the preceding year, the approved management plan has been amended with respect to the acreage or location of forest land committed to forest crop production under this section.

4. (a) Certified eligible tracts approved for exemption under this section shall be exempt from taxation to the extent of eighty per centum of the assessed valuation thereof, or to the extent that the assessed valuation exceeds the amount resulting from multiplying the latest state

equalization rate or, where a special equalization rate has been established pursuant to section twelve hundred twenty-four of this chapter for the purposes of this section, the special equalization rate by forty dollars per acre, whichever is the lesser.

(b) The assessed value of the exemption, if any, granted pursuant to this section shall be entered by the assessor on the assessment roll in such manner as shall be prescribed by the commissioner.

(c) Where a special equalization rate has been established by the commissioner pursuant to section twelve hundred twenty-four of this chapter, the assessor is directed and authorized to recompute the forest land exemption on the assessment roll by applying such special equalization rate instead of the latest state equalization rate in computing the forest land exemption, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of this chapter. Upon completion of the final assessment roll or, where a special equalization rate has been established, upon recomputation of the forest land exemption, the assessor shall certify to the department each exemption granted pursuant to this section in a manner prescribed by the commissioner.

5. (a) Whenever any cutting of the merchantable forest crop on any certified eligible tract is proposed during the period of commitment pursuant to subdivision three of this section, the owner shall give not less than thirty days' notice to the department in a manner and upon such form as may be prescribed by the department. Such notice shall include information as to the [~~stumpage value,~~] amount and location of such cutting. [~~The department shall, within fifteen days after receipt of such notice from the owner, certify the stumpage value, if any, to the owner and to the county treasurer of the county or counties in which the tract is situated. No later than thirty days after receipt of such certification of value, the owner shall pay a six percentum tax on the certified stumpage value of the merchantable forest crop to such county treasurer.~~]

(b) [~~Notwithstanding the provisions of paragraph (a) of this subdivision, if the stumpage value of a merchantable forest crop will be determined with reference to a scale to be conducted after the commencement of the proposed cutting, the owner may elect to be taxed in accordance with this paragraph. Such election shall be made not less than thirty days in advance of commencement of the cutting, in such manner and upon such form as may be prescribed by the department. Such notice shall include information as to the estimated volume, scaling method, and the schedule and length of the cutting period, not to exceed one year. If a proper election has been made in accordance with this paragraph, the department shall so notify the owner before any cutting takes place on the eligible tract, and it shall certify the scaled stumpage value to the owner of the tract and to the county treasurer of the county or counties when the cutting has concluded. No later than thirty days after the receipt of such certification of value, the owner shall pay a six per centum tax on the stumpage value of the merchantable forest crop to such county treasurer.~~

~~(c) In the event that a tax required by this subdivision or by subdivision six of this section shall not be timely paid, it shall be levied and collected, together with any penalty or penalties determined pursuant to subdivision seven of this section, in the same manner and at the same time as other taxes imposed and levied on the next completed tax roll of such county or counties.~~

~~(d)~~] Notwithstanding the foregoing provisions of this subdivision and the provisions of subdivision six of this section, the owner of any land certified under this section may make all intermediate noncommercial cuttings, as prescribed in the approved management plan, and may annually cut, in accordance with sound forestry practices, **not more than** ten standard cords or the equivalent for such owner's own use, without notice [~~and free of tax imposed by this section~~].

6. (a) The department may serve notice upon the owner of a certified tract directing such owner to make a cutting as prescribed in the approved management plan for such tract. Should such cutting involve the sale or utilization of a merchantable forest crop, not less than thirty days in advance of cutting the owner shall give notice to the department of the [~~stumpage value,~~] amount and location of the cutting on a form prescribed by the department. [~~The department shall within fifteen days after receipt of such notice from the owner, certify the stumpage value, if any, to the owner and to the county treasurer of the county or counties in which such tract is situated. No later than thirty days after receipt of such certification of value, the owner shall pay a six per centum tax on the certified stumpage value to such county treasurer.~~]

(b) Any cutting of a merchantable forest crop under this subdivision must be conducted within two years from the date of service of the notice upon the owner issued by the department. [~~Upon failure of the owner within such period to conduct such cutting, the department shall certify to the owner and the county treasurer of the county or counties the stumpage value of such merchantable forest crop. No later than thirty days after receipt of such certification of value, the owner shall pay a six per centum tax on the certified stumpage value to such county treasurer.~~]

(c) Any noncommercial cutting under this subdivision must be conducted within one year from the date of service of the notice upon the owner issued by the department.

(d) If such owner, within the period prescribed by this subdivision, makes such cuttings as directed by the department, the tract shall continue to be certified as long as the owner shall continue to comply with the provisions of this section and manage the same in the manner prescribed in the approved management plan for such tract.

7. (a) The department shall, after notice and hearing, issue a notice of violation of this section for any certified tract whenever it finds that:

(i) any tract or portion thereof is converted to a use which precludes management of the land for forest crop production; or

(ii) the owner fails to give **written** notice of a proposed cutting on such tract [~~or fails to timely pay the appropriate tax on the stumpage value of the merchantable forest crop determined pursuant to subdivision five or six of this section~~]; or

(iii) the owner fails to comply with the approved management plan for such tract at any time during the commitment period; or

(iv) the owner fails to make a timely cutting in accordance with the provisions of subdivision six of this section after service of notice by the department to make such a cutting.

(b) Notwithstanding the finding of an occurrence described by subparagraph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the department, upon prior notice to the appropriate assessor, may determine that a violation has not occurred if the failure to comply was due to reasons beyond the control of the owner and such failure can be

corrected forthwith without significant effect on the overall purpose of the management plan.

(c) The owner of [~~such~~] **an eligible** tract, following the issuance of such notice by the department for one or more of the reasons set forth in paragraph (a) of this subdivision, shall be subject to a penalty as provided in paragraph (d) or (e) of this subdivision, whichever applies. Penalties imposed by this section shall be subject to interest charges at the rate established pursuant to section nine hundred twenty-four-a of this chapter for each applicable year or, for years prior to nineteen hundred eighty-four, at a rate of six per centum per annum compounded. Such interest shall accrue in the year with reference to which a penalty, or portion thereof, is attributed.

(d) Except as otherwise provided in paragraph (e) of this subdivision[~~,~~]**:**

(i) the penalty imposed under paragraph (c) of this subdivision **for a parcel that has been enrolled under this section for less than ten years** shall be computed by multiplying by two and one-half the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and any prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years[~~, not to exceed a total of ten years~~].

(ii) the penalty imposed under paragraph (c) of this subdivision for a parcel that has been enrolled under this section for a minimum of ten years but less than twenty years shall be computed by multiplying by one and one-half the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years.

(iii) the penalty imposed under paragraph (c) of this subdivision for a parcel that has been enrolled under this section for a minimum of twenty years shall be the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and the prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years.

(e) The penalty imposed under paragraph (c) of this subdivision applicable to converted land which constitutes only a portion of a certified eligible tract shall be twice the amount determined under paragraph (d) of this subdivision. In calculating such penalty, only that portion of the tract that was actually converted to a use that precludes management of the land for forest crop production shall be used as the basis for determining the penalty.

(f) A notice of violation issued under this subdivision shall be given by the department to the owner and to the county treasurer of the county or counties in which such tract is located, and the penalty and interest charges shall be computed for each of the municipal corporations in which such tract is located by such county treasurer. Upon completion of the computation of the penalty and interest, the county treasurer shall give notice to the owner of the amount of the penalty and interest, and the amount shall be entered on the next completed tax roll of such county or counties. Such penalties and interest shall be levied and collected in the same manner and at the same time as other taxes are

imposed and levied on such roll. Upon collection of such penalties and interest, such county treasurer shall pay the amounts due to each of the appropriate municipal corporations.

(g) Upon receipt of proof satisfactory to the department that all penalties[~~, stumpage taxes~~] and interest imposed by this section have been fully paid or satisfied, the department shall revoke the certificate of [~~approval~~] **eligibility** issued pursuant to subdivision two of this section, and notice of such revocation shall be given to the owner and to the county clerk of the county or counties in which the tract is located. Upon receipt of such notice of revocation, the county clerk shall record the same in the books kept for the recording of deeds and shall index the same in the deed index against the name of the owner of the property. The county clerk shall also note on the face of the last certificate of [~~approval or certified~~] **eligibility and** commitment **form** previously recorded pursuant to this section the word "REVOKED" followed by a reference to the liber and page where the notice of revocation is recorded pursuant to this subdivision.

(h) The certificate of [~~approval~~] **eligibility** of a certified tract for which no notice of violation has been issued shall be revoked without penalty upon receipt of proof satisfactory to the department that nine years have passed from the year of the last [~~certified~~] commitment **form** filed with the assessor by the owner pursuant to subdivision three of this section. Notice of such revocation shall be recorded and indexed as provided in paragraph (g) of this subdivision.

(i) No fee, penalty or rollback of taxes otherwise due pursuant to this section may be imposed upon the city of New York for failure to comply with [~~a certified~~] **an approved** management plan for an eligible tract that the city acquires for watershed purposes.

8. (a) The owner of a certified tract shall not be subject to any penalty under this section that would otherwise apply because such tract or any portion thereof is converted to a use other than forest crop production by virtue of: (i) an involuntary taking by eminent domain or other involuntary proceeding, except a tax sale, or (ii) a voluntary proceeding, providing such proceeding involves the establishment of rights-of-way for public highway or energy transmission purposes wherein such corridors have been established subsequent to public hearing as needed in the public interest and environmentally compatible, or (iii) oil, gas or mineral exploration, development or extraction activity undertaken by an independent grantee pursuant to a lease or other conveyance of subsurface rights recorded more than ten years prior to the date of the certificate of [~~approval~~] **eligibility** issued by the department under subdivision two of this section, or (iv) where all or a substantial portion of the certified tract is destroyed or irreparably damaged by reason of an act of God or a natural disaster.

(b) In the event the land so converted to a use other than forest crop production constitutes only a portion of such tract, the assessor shall apportion the assessment, and enter that portion so converted as a separately assessed parcel on the appropriate portion of the assessment roll. The assessor shall then adjust the forest land exemption attributable to the portion of the tract not so converted by subtracting the proportionate part of the exemption of the converted parcel.

(c) If the portion so converted divides the tract into two or more separate parcels, such remaining parcels not so converted will remain [~~certified~~] **eligible** under this section, regardless of size, except that should any remaining parcel be no longer accessible for continued forest crop production, the department shall, after notice and hearing, revoke

the [~~certification~~] **certificate of eligibility** of the inaccessible parcel or parcels, and notice of such revocation shall be recorded and indexed as provided in subdivision seven of this section. Such revocation shall not subject the owner of the tract to penalty, but the exemption under this section shall no longer apply to the tract or portion thereof no longer accessible.

(d) The owner of a certified **eligible** tract shall not be subject to penalty under this section that would otherwise apply because the forest crop on the certified **eligible** tract or portion is, through no fault of the owner, damaged or destroyed by fire, infestation, disease, storm, flood, or other natural disaster, act of God, accident, trespass or war. If a merchantable forest crop is to be cut or removed in connection with necessary salvage operations resulting from any such event, the owner shall give notice of cutting[~~, the department shall certify the stumpage value, and stumpage tax shall be payable, collected and enforced as provided in subdivisions five and seven of this section~~]. Nothing in this paragraph shall be construed to subject any person to penalty under subdivision seven of this section for immediate action taken in good faith in the event of an emergency.

9. All [~~stumpage tax,~~] penalties and interest charges thereon collected pursuant to subdivisions five, six and seven of this section shall be apportioned to the applicable municipal corporations in which such tract is situated.

10. (a) Management plans approved pursuant to this section shall not be deemed to authorize or permit any practice or activity prohibited, restricted or requiring further approval under the environmental conservation law, or any other general or special law of the state, or any lawful rule or regulation duly promulgated thereunder.

(b) No otherwise eligible tract, or portion thereof, shall be deemed to be ineligible for certification or qualification under this section, and no certificate of [~~approval~~] **eligibility** shall be revoked or penalty imposed, solely on the ground that any such law, rule or regulation partially restricts or requires further approval for forest crop production practices or activities on such tract or portion.

11. The owner of an eligible tract certified under an approved management plan under this section as of March first, two thousand nineteen may withdraw such eligible tract from commitment, without penalty or obligation to follow the approved management plan for the remaining commitment term, until February twenty-eighth, two thousand twenty. The owner of an eligible tract certified under an approved management plan under this section may withdraw such eligible tract from commitment, without penalty, upon commitment to sustainable forest management under a forest certification program of such eligible tract or implementing an approved forest management practice on a qualifying portion under section four hundred eighty-b of this title at any time.

12. Notwithstanding any law to the contrary, in the event that lands subject to an approved management plan and a certificate of eligibility pursuant to this section of law are:

(a) transferred or sold to family members of the landowner, as defined by regulations of the department, such lands may continue to be eligible to participate in the program and all management obligations of such lands may also be transferred if such new landowner desires to continue participation in such program. If such landowner does not want to continue to participate in the program authorized by this section, such lands shall no longer be eligible for the program and such landowner shall be responsible for the remaining nine years of the commitment

including all management obligations or such new landowner may apply for a program pursuant to section four hundred eighty-b of this title at any time.

(b) transferred or sold to non-family members of the landowner, such lands shall no longer be eligible for participation in the program. However, such new landowner shall be responsible for the remaining nine years of the commitment including all management obligations or such new landowner may apply, if desired, under section four hundred eighty-b of this title.

(c) the subject of an application for eligibility under a forest management practice plan pursuant to section four hundred eighty-b of this title after the sale or transfer of land as listed in paragraphs (a) and (b) of this subdivision, such landowners shall not be required to conduct a qualifying management practice to be eligible for the program authorized pursuant to section four hundred eighty-b of this title.

13. (a) Any county, town or school district in which the total assessed value exempted by this section and sections four hundred eighty and four hundred eighty-b of this title represents one percent or more of the total taxable assessed value on the final tax roll, as computed and verified by the department of taxation and finance, shall be eligible to receive forestry exemption assistance.

(b)(i) The county treasurer of any eligible county shall annually submit to the department of taxation and finance a list of any changes to the assessed value, taxable status or acreage of all lands made subsequent to the filing of those assessments rolls upon which county taxes are extended, and the county tax rate and town tax rate extended against any parcel receiving one of those exemptions. Such list shall include a statement of the total taxable assessed value, both before and after application of the exemption, of the county and of each listed town and parcel.

(ii) The business manager of any eligible school district shall annually submit to the department of taxation and finance a list of any changes to the assessed value, taxable status or acreage of all lands made subsequent to the filing of those assessment rolls upon which school taxes are extended, and the school tax rate extended against any parcel receiving one of those exemptions. Such list shall include a statement of the total taxable assessed value, both before and after application of the exemption, of the school district and of each listed parcel.

(iii) Lists prepared pursuant to this paragraph shall be filed with the department of taxation and finance within thirty days of the levy of taxes each year. In the event that a tax roll or final roll is revised, corrected, or altered for any reason within thirty-six months of the filing of such list, a county, town or school district shall so notify the department of taxation and finance. The department of taxation and finance shall thereupon increase or decrease the next payment of such assistance to the affected county, town and/or school district to the extent the prior payment was too low or too high in light of such revision, correction, or alteration.

(c) The department of taxation and finance shall annually compute the amount of forestry exemption assistance payable to or for the benefit of a county, town or school district.

(d) (i) Subject to appropriation, the amount of forestry exemption assistance paid to a county, town or school district pursuant to this subdivision in any year shall equal the tax exempt value that exceeds

one percent of the reduced total taxable assessed value, as computed by paragraph (a) of this subdivision, multiplied by the applicable tax rate, as determined by the commissioner of taxation and finance, in such town, county, or school district.

(ii) Any forestry exemption assistance provided to a county or school district under this subdivision in any year shall be reduced by the amount of small government assistance paid to such county or school district in the current state fiscal year, and, in the case of a town, shall be reduced by the amount of small government assistance paid to such town in state fiscal year two thousand four-two thousand five pursuant to chapter fifty of the laws of two thousand four, and shall be further reduced by the amount that was added to the base level grant for such town pursuant to subparagraph eight of paragraph b of subdivision ten of section fifty-four of the state finance law as added by section two of part M of chapter fifty-six of the laws of two thousand five, as reported to the department of taxation and finance by the division of the budget.

(e) The department of taxation and finance shall annually certify to the state comptroller the amount of forestry exemption assistance payable pursuant to this subdivision, and shall mail a copy of such certification to the county treasurer of each county and business manager of each school district containing eligible private forest tracts. Such forestry exemption assistance shall be paid on audit and warrant of the comptroller out of monies appropriated by the legislature, provided that if an appropriation does not fully reimburse all impacted towns, counties and school districts, the amount shall be provided on a pro rata basis to each eligible town, county and school district.

§ 4. The real property tax law is amended by adding a new section 480-b to read as follows:

§ 480-b. Taxation of forest land under a forest practice program or forest certification program. 1. As used in this section:

(a) "Agricultural land" shall mean land that has received an agricultural assessment pursuant to section three hundred five or section three hundred six of the agriculture and markets law, provided that farm woodland that has received an agricultural assessment in each of the previous five years may qualify for the exemption provided by this section. Farm woodland that qualifies for and receives this exemption shall not also receive an agricultural assessment.

(b) "Commitment" shall mean a declaration to the assessor and county clerk made on an annual basis by the owner of a certified eligible tract either (i) committing such tract to sustainable forest management for the next succeeding ten years under a forest certification program, or (ii) committing such tract to sustainable forestry and open space preservation for the next succeeding ten years under a forest management practice plan. The commitment made shall be on a commitment form prescribed by the department, and shall include the verification of continued eligibility. A commitment form without a properly completed verification of continued eligibility shall be of no legal effect.

(c) "Certificate of eligibility" shall mean a certificate issued by the department and sent to the landowner of an eligible tract that demonstrates such tract meets all requirements of a forest certification program or forest management practice plan in which it is enrolled.

(d) "Department" shall mean the department of environmental conservation.

(e) "Eligible tract" shall mean a tract of privately owned land of at least twenty-five contiguous acres, exclusive of any portion thereof not

devoted to forest or other open space, as defined in regulations, of which at least half of the acres must be forest land. Lands divided by federal, state, county or town roads, easements or rights-of-way, or energy transmission corridors or similar facilities will be considered contiguous for purposes of this section, unless vehicular access for forest management purposes is precluded. Lands from which a merchantable forest crop, as defined in section four hundred eighty-a of this title, has been cut or removed within three years prior to the time of application for certification under this section will be ineligible unless such cutting or removal was accomplished under a forest management practice plan designed to provide for sustainable forestry as determined by the state forester or his or her designee. Agricultural land is not eligible for enrollment under this program.

(f) "Forest land" shall mean land suitable for forest crop production through natural regeneration or through forestation and shall be stocked with a stand of forest trees sufficient to produce a merchantable forest crop in the future.

(g) "Forest certification program" shall mean a forest certification program, selected by the owner, and which is administered by a qualified third party to ensure sustainable forest management is practiced on the land, as specified in regulations promulgated by the department.

(h) "Qualifying forest management practice" shall mean any cutting of trees related to commercial harvesting including regeneration harvesting; timber stand improvement including weeding, thinning, or crop tree release; site preparation for planting; invasive and/or competing vegetation control; riparian buffer establishment or enhancement; or other activities as specified in regulations promulgated by the department.

(i) "Forest management practice plan" shall mean a plan approved by the department for one or more qualifying forest management practice to be conducted on a combined total of at least ten acres of forest land of an eligible tract which shall set forth requirements and standards as defined in regulations to ensure and enhance the future productivity and sustainability of the forest treated, and ensure successful regeneration of desirable species, when planned. Such plan must be prepared by or under the direct supervision of a department approved forester as specified in regulations promulgated by the department.

(j) "Verification of continued eligibility" shall mean a portion of the commitment form prepared and signed by the landowner which certifies that such landowner continues to satisfy all conditions and requirements of his or her initial enrollment under this section.

2. (a) An owner of an eligible tract may apply to the department for a certificate of eligibility under a forest management practice plan or forest certification program pursuant to this section on forms prescribed by the department. If the department finds that such tract is an eligible tract, it shall forward a certificate of eligibility to the owner thereof.

(b) The department shall, after public hearings, adopt and promulgate rules and regulations necessary for the implementation of this section, including specifying forest management practices which would qualify a tract for certification.

(c) Any tract certified pursuant to this subdivision shall be subject to the provisions of this section. The obligations of this section shall devolve upon and the benefits inure to the owner, his or her heirs, successors and assigns.

3. (a) To qualify for a forest land exemption under this section the owner of a certified eligible tract shall:

(i) file the certificate of eligibility in the office of the clerk of the county or counties in which such tract is situated. Such certificate shall specify that the tract described therein is committed to either (A) sustainable forest management under a forest certification program or (B) sustainable forestry and open space preservation under an approved forest management practice plan, whichever is applicable, for an initial period of ten years. Upon receipt of such certificate, the county clerk shall record the same in the books kept for the recording of deeds and shall index the same in the deed index against the name of the owner of the property; and (ii) prior to the taxable status date for the first assessment roll upon which such exemption is sought, file an initial application for exemption with the appropriate assessor on forms prescribed by the commissioner. Such application must be accompanied by a certificate of eligibility issued by the department and the commitment form; (iii) prior to the taxable status date for each subsequent assessment roll upon which such exemption is sought, file with the appropriate assessor the commitment form for such tract to either (A) sustainable forest management under a forest certification program or (B) sustainable forestry and open space protection under an approved forest management practice plan, whichever is applicable, for the next succeeding ten years; and (iv) conduct an approved initial qualifying forest management practice on a combined total of at least ten acres of forest land of an eligible tract.

(b) If the requirements of this section are met, the assessor shall approve the application and such eligible tract shall be exempt from taxation pursuant to subdivision four of this section to be effective as of the first taxable status date occurring subsequent to such approval, and shall continue to be so exempt thereafter upon receipt by the assessor of a commitment form filed in accordance with subparagraph (iii) of paragraph (a) of this subdivision and so long as the certification of the eligible tract has not been revoked by the department.

(c) Failure on the part of the owner to file the commitment form in any year following initial certification will result in the termination of the forest land exemption under this section applicable to the property for that and each succeeding taxable years. Failure to file a commitment form will not constitute a conversion of the tract or breach of the commitment, pursuant to subdivision seven of this section, and the commitment of the property to either (i) sustainable forest management under a forest certification program or (ii) sustainable forestry or open space preservation through the approved forest management practice plan option, whichever is applicable, shall remain in force for the next succeeding nine years following the last taxable year for which a commitment form was filed.

(d) Following failure to file a commitment form in one or more years, in order to obtain a forest land exemption under this section, an owner of a certified tract may submit a commitment form to the assessor before the taxable status date in any subsequent year, except that a new application under paragraph (a) of subdivision two of this section and subparagraph (i) of paragraph (a) of this subdivision also shall be required if more than five years have elapsed since the owner's last commitment form and verification of continued eligibility was filed. Such new application also shall be required whenever, during the preceding year, the approved forest management practice plan has been amended with respect to the acreage of land committed to sustainable forestry, under a forest certification program or sustainable forestry and open space preservation under this section.

4. (a) Certified eligible tracts approved for exemption under this section shall be exempt from taxation to the extent of (i) seventy per centum of the assessed valuation thereof in the case of an eligible tract enrolled under a department recognized forest certification program, or (ii) forty per centum of the assessed valuation thereof in the case of an eligible tract enrolled through a forest management practice plan.

(b) The assessed value of the exemption granted pursuant to this section shall be entered by the assessor on the assessment roll in such manner as shall be prescribed by the commissioner.

5. (a) For lands eligible pursuant to a forest management practice plan, whenever any forest management practice on any certified eligible tract is proposed during the period of commitment pursuant to subdivision three of this section, the owner shall submit a forest management practice plan to the department for approval no less than thirty days prior to the anticipated commencement of such plan and in a manner and upon such form as may be prescribed by the department.

(b) Notwithstanding the foregoing provisions of this subdivision and the provisions of subdivision six of this section, the owner of any land certified under this section may annually cut, in accordance with sound forestry practices, not more than ten standard cords or the equivalent for such owner's own use, without notice.

6. Any qualifying forest management practice under this subdivision must be conducted within two years from the date of department approval of the forest management practice plan.

7. (a) The department shall, after notice and hearing, issue a notice of violation of this section for any certified tract whenever it finds that:

(i) any tract or portion thereof is converted to a use which precludes management of the land for sustainable forestry or open space; or

(ii) the owner fails to submit a forest management practice plan to the department for approval prior to commencing such practice; or

(iii) the owner fails to maintain their participation in a department recognized forest certification program during the commitment period; or

(iv) the owner fails to carry out a forest management practice in accordance with the specifications of the qualifying forest management practice plan.

(b) Notwithstanding the finding of an occurrence described by subparagraph (ii), (iii) or (iv) of paragraph (a) of this subdivision, the department, upon prior notice to the appropriate assessor, may determine that a violation has not occurred if the failure to comply was due to reasons beyond the control of the owner and such failure can be corrected forthwith without significant effect on the overall purpose of the commitment.

(c) The owner of such tract, following the issuance of such notice by the department for one or more of the reasons set forth in paragraph (a) of this subdivision, shall be subject to a penalty as provided in paragraph (d) or (e) of this subdivision, whichever applies. Penalties imposed by this section shall be subject to interest charges at the rate established pursuant to section nine hundred twenty-four-a of this chapter for each applicable year. Such interest shall accrue in the year with reference to which a penalty, or portion thereof, is attributed.

(d) Except as otherwise provided in paragraph (e) of this subdivision:

(i) the penalty imposed under paragraph (c) of this subdivision for a parcel that has been enrolled under this section for less than ten years shall be computed by multiplying by two and one-half the amount of taxes

that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and any prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years.

(ii) the penalty imposed under paragraph (c) of this subdivision for a parcel that has been enrolled under this section for a minimum of ten years but less than twenty years shall be computed by multiplying by one and one-half the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years.

(iii) the penalty imposed under paragraph (c) of this subdivision for a parcel that has been enrolled under this section for a minimum of twenty years shall be the amount of taxes that would have been levied on the forest land exemption entered on the assessment roll pursuant to subdivision four of this section for the current year and prior years in which such an exemption was granted, utilizing the applicable tax rate for the current year and for such prior years, not to exceed a total of ten years.

(e) The penalty imposed under paragraph (c) of this subdivision applicable to converted land which constitutes only a portion of a certified eligible tract shall be twice the amount determined under paragraph (d) of this subdivision. In calculating such penalty, only that portion of the tract that was actually converted to a use that precludes either (i) sustainable forest management under a forest certification program or (ii) management of the land for sustainable forest management and open space, shall be used as the basis for determining the penalty, unless the remaining portion no longer meets the minimum acreage requirements of paragraph (e) of subdivision one of this section, in which case the entire tract shall be deemed ineligible and subject to revocation and penalties.

(f) A notice of violation issued under this subdivision shall be given by the department to the owner and to the county treasurer of the county or counties in which such tract is located, and the penalty and interest charges shall be computed for each of the municipal corporations in which such tract is located by such county treasurer. Upon completion of the computation of the penalty and interest, the county treasurer shall give notice to the owner of the amount of the penalty and interest, and the amount shall be entered on the next completed tax roll of such county or counties. Such penalties and interest shall be levied and collected in the same manner and at the same time as other taxes are imposed and levied on such roll. Upon collection of such penalties and interest, such county treasurer shall pay the amounts due to each of the appropriate municipal corporations.

(g) Upon a finding of a violation, the department shall revoke the certificate of eligibility issued pursuant to subdivision two of this section, and notice of such revocation shall be given to the owner and to the county clerk of the county or counties in which the tract is located. Upon receipt of such notice of revocation, the county clerk shall record the same in the books kept for the recording of deeds and shall index the same in the deed index against the name of the owner of the property. The county clerk shall also note on the face of the last certificate of eligibility and commitment form previously recorded

pursuant to this section the word "REVOKED" followed by a reference to the liber and page where the notice of revocation is recorded pursuant to this subdivision.

(h) The certificate of eligibility of a tract for which no notice of violation has been issued shall be revoked without penalty upon receipt of proof satisfactory to the department that nine years have passed from the year of the last commitment form filed with the assessor by the owner pursuant to subdivision three of this section. Notice of such revocation shall be recorded and indexed as provided in paragraph (g) of this subdivision.

(i) No fee, penalty or rollback of taxes otherwise due pursuant to this section may be imposed upon the city of New York for failure to comply with an approved forest management practice plan for an eligible tract that the city acquires for watershed purposes.

8. (a) The owner of a certified eligible tract shall not be subject to any penalty under this section that would otherwise apply because such tract or any portion thereof is converted to a use other than (i) sustainable forest management under a forest certification program or (ii) sustainable forestry and open space preservation under an approved forest management practice, whichever is applicable, by virtue of: (A) an involuntary taking by eminent domain or other involuntary proceeding, except a tax sale, or (B) a voluntary proceeding, provided such proceeding involves the establishment of rights-of-way for public highway or energy transmission purposes wherein such corridors have been established subsequent to public hearing as needed in the public interest and environmentally compatible, or (C) oil, gas or mineral exploration, development or extraction activity undertaken by an independent grantee pursuant to a lease or other conveyance of subsurface rights recorded more than ten years prior to the date of the certificate of eligibility issued by the department under subdivision two of this section, or (D) where all or a substantial portion of the certified tract is destroyed or irreparably damaged by reason of an act of God or a natural disaster.

(b) In the event the land so converted to a use other than (i) sustainable forest management under a forest certification program or (ii) sustainable forestry and open space preservation under an approved forest management practice plan, whichever is applicable, constitutes only a portion of such tract, the assessor shall apportion the assessment, and enter that portion so converted as a separately assessed parcel on the appropriate portion of the assessment roll. The assessor shall then adjust the forest land exemption attributable to the portion of the tract not so converted by subtracting the proportionate part of the exemption of the converted parcel.

(c) If the portion so converted divides the tract into two or more separate parcels, such remaining parcels not so converted will remain eligible under this section, regardless of size.

(d) The owner of a certified tract shall not be subject to penalty under this section that would otherwise apply because the forest or open space on the certified tract or portion is, through no fault of the owner, damaged or destroyed by fire, infestation, disease, storm, flood, or other natural disaster, act of God, accident, trespass or war. If a forest management practice is to occur in connection with necessary salvage operations resulting from any such event, the owner shall submit a forest management practice plan to the department for approval prior to the commencement of such practice. Nothing in this paragraph shall be construed to subject any person to penalty under subdivision seven of

this section for immediate action taken in good faith in the event of an emergency.

9. All penalties and interest charges thereon collected pursuant to subdivisions five, six and seven of this section shall be apportioned to the applicable municipal corporations in which such tract is situated.

10. (a) Forest certification programs recognized and forest management practice plans approved pursuant to this section shall not be deemed to authorize or permit any practice or activity prohibited, restricted or requiring further approval under the environmental conservation law, or any other general or special law of the state, or any lawful rule or regulation duly promulgated thereunder.

(b) No otherwise eligible tract, or portion thereof, shall be deemed to be ineligible for certification or qualification under this section, and no certificate of eligibility shall be revoked or penalty imposed, solely on the ground that any such law, rule or regulation partially restricts or requires further approval for forest management practices or activities on such tract or portion.

§ 5. Section 9-0815 of the environmental conservation law, as added by chapter 602 of the laws of 2003, the section heading and subdivision 3 as amended by chapter 623 of the laws of 2003, is amended to read as follows:

§ 9-0815. [~~Request for comment on local laws or ordinances pertaining to the practice of forestry~~] Forestry practice requirements.

[~~The commissioner upon his or her own initiative, or upon the written request of a municipality or an owner of forest land within the municipality, may elect to comment upon a proposed local law or ordinance which may restrict the practice of forestry. The requesting municipality or owner of forest land shall provide, at a minimum, the full text of the proposed local law or ordinance to the commissioner with such request.~~]

1. [~~Upon receipt of such written request or upon the commissioner's determination to comment on a local law or ordinance, the commissioner shall notify the municipal legislative body, in writing, of the receipt date or the date of such determination~~] a. Any municipality proposing an ordinance, regulation or permit requirement which may restrict the practice of forestry, including but not limited to, timber harvesting, other forest management practices, and temporary storage or transport of logs or other wood products from harvest sites, shall submit such proposals to the department for review, comment and input, to ensure they do not adversely impact the landowner's right to practice forestry.

[~~2. An owner of forest land shall provide notice to the municipal legislative body proposing the local law or ordinance of a written request to the commissioner in the time, manner, and form as may be prescribed by the commissioner~~] b. The requiring municipality shall provide, at a minimum, the full text of the proposed local law or ordinance to the commissioner.

[~~3.~~] c. The commissioner, in preparing his or her comments for consideration by the municipality, may consider factors including, but not limited to, the impact of the proposed local law or ordinance upon the long-term viability of forests in the municipality and any modifications or alternatives which a municipality may undertake to minimize the impacts to the practice of forestry in preparing his or her comments.

[~~4.~~] d. The commissioner shall have forty-five days after receipt of an ordinance to provide his or her comments, if any, to the municipal legislative body proposing the law or ordinance. Any municipal legislative body shall defer the adoption of such local law or ordinance pend-

ing receipt of comments, if any, from the commissioner or the passage of forty-five days from the date of receipt of the proposed local law or ordinance by the commissioner. The commissioner shall have the opportunity to [~~respond~~] review and provide comments only to the original proposal considered by the local governing body.

[~~5.~~] e. For purposes of this section, "forest land" shall mean land that is suitable to forest crop production.

f. If the department recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

2. The department shall promulgate rules and regulations requiring all landowners, or their authorized agents, to provide notification to the department prior to engaging in any commercial timber harvest of a merchantable forest crop from ten or more acres of privately-owned forest land in any given year.

a. Such notification shall be in the manner and format prescribed by the department and, at minimum, shall include:

(i) name and address of the landowner;

(ii) name and address of any authorized agent of the landowner conducting forestry related activities, such as a forester, land manager or logger;

(iii) location and acreage of the area to be harvested and planned point or points of access to public road or roads;

(iv) approximate start and end dates of the harvest;

(v) approximate volume to be harvested;

(vi) products and species to be harvested;

(vii) whether the harvest is being conducted pursuant to a written forest management plan under section four hundred eighty-a or a program under section four hundred eighty-b of the real property tax law and, if applicable, the name and address of the individual or entity that prepared the plan;

(viii) whether the harvest is being conducted pursuant to a harvesting contract; and

(ix) other information as deemed necessary and beneficial.

b. The department shall share timber harvest notifications with any municipality that requests such notifications, in writing, for harvests in such municipality.

c. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing timber harvest notification shall upon the effective date of a chapter of the laws of two thousand eighteen that amended this section be preempted.

§ 6. Article 9 of the environmental conservation law is amended by adding two new titles 23 and 25 to read as follows:

TITLE 23

COMMUNITY FOREST GRANT PROGRAM

Section 9-2301. Definitions.

9-2303. Criteria for community forest projects.

9-2305. State assistance application procedure.

9-2307. Regulations.

9-2309. Contracts for state assistance payments.

9-2311. Powers and duties of the commissioner.

§ 9-2301. Definitions.

For the purpose of this title, the following terms shall have the following meanings:

1. "Eligible land" shall mean private forest land in the state that is at least twenty-five acres in size, suitable to sustain natural vegetation, which is at least seventy-five percent forested.

2. "Municipality" shall mean a county, city, town, village, or Indian nation or tribe recognized by the United States with a reservation wholly or partly within the boundaries of the state, a local public authority or public benefit corporation, or any combination thereof.

3. "Not-for-profit conservation organization" means a not-for-profit corporation organized for the conservation or preservation of real property and which has the power to acquire interests in real property. Such organization must have qualified as exempt for federal tax purposes pursuant to section 501 (c)(3) of the internal revenue code or any similar successor statutory provision.

§ 9-2303. Criteria for community forest projects.

1. The department shall provide, on a competitive basis, within amounts appropriated state assistance to municipalities and not-for-profit conservation organizations for the purchase of lands for the purposes herein provided, to establish forest plantations or for the care and management of forests. The program shall require a fifty percent non-state match.

2. The purpose of the program is to establish community forests to protect forest land from conversion to non-forest uses and provide community benefits such as sustainable forest management, environmental benefits including clean air, water, and wildlife habitat; benefits from forest-based educational programs; benefits from serving as models of effective forest stewardship; and recreational benefits secured with public access.

§ 9-2305. State assistance application procedure.

1. A municipality upon the approval of its governing body, or not-for-profit conservation organization, may submit an application to the commissioner, in such form and containing such information as the commissioner may require, for state assistance payments toward the cost of a project which is eligible for state assistance pursuant to this title.

2. The commissioner shall review such project application and may approve, disapprove or recommend modifications thereto consistent with applicable law, criteria, standards or rules and regulations relative to such projects.

§ 9-2307. Regulations.

The department may promulgate any rules and regulations necessary to implement and administer this title including but not limited to application procedures, review processes, and project approval guidelines and criteria.

§ 9-2309. Contracts for state assistance payments.

The commissioner shall impose such contractual requirements and conditions upon any municipality and any not-for-profit conservation organization which receive funds pursuant to this title as may be necessary and appropriate to assure that a public benefit shall accrue from the use of public funds by such municipality and not-for-profit conservation organization.

§ 9-2311. Powers and duties of the commissioner.

In administering the provisions of this title the commissioner:

1. shall make an itemized estimate of funds or appropriations requested annually for inclusion in the executive budget;

2. may, in the name of the state, as further provided within this title, contract to make, within the limitations of appropriation avail-

able therefor, state assistance payments toward the costs of an approved project. Such contracts shall be subject to approval by the state comptroller and, as to form, by the attorney general;

3. shall approve vouchers for the payments pursuant to an approved contract. All such payments shall be paid on the audit and warrant of the state comptroller; and

4. may perform such other and further acts as may be necessary, proper or desirable to carry out the provisions of this article.

TITLE 25
EMPIRE FOREST INCENTIVE PROGRAM

Section 9-2501. Definitions.
9-2503. Criteria for empire forest incentive projects.
9-2505. State assistance application procedure.
9-2507. Regulations.
9-2509. Contracts for state assistance payments.
9-2511. Powers and duties of the commissioner.

§ 9-2501. Definitions.

For the purpose of this title, "eligible land" shall mean private forest land in the state that is at least twenty-five acres in size, suitable to sustain natural vegetation.

§ 9-2503. Criteria for empire forest incentive projects.

1. The department shall provide through a competitive process, within amounts appropriated, state assistance payments pursuant to the empire forest incentive program to landowners for the costs associated with sound, scientifically based forest management practices on eligible land. The program shall require a non-state match. The department may contract with an independent third party organization to administer such state assistance program, provided that not more than ten percent of all funds may be made available to carry out the program for each fiscal year for program administration and technical assistance under such contract.

2. The projects that qualify for state assistance payments under this title shall include but are not limited to:

a. Forest stewardship planning projects, including upgrading an existing plan to state approved standards. Forest stewardship planning projects must be completed and approved by the department before the landowner is eligible for other projects.

b. Forest stand improvement projects to enhance growth and quality of wood fiber for activities such as tree marking, thinning, cull removal, or grapevine removal.

c. Invasive species control projects to limit the spread of invasive species in forested environments through eradication or management practices that support the forest owner's management goals. This project does not include orchard, ornamental, nursery or Christmas tree purposes.

d. Afforestation or reforestation projects to encourage regeneration of forest cover through site preparation, planting, seeding, fencing, or tree shelters for the purposes of timber or fiber production or carbon sequestration. Planting shall be limited to non-invasive native or naturalized species and cannot be used for orchard, ornamental, nursery or Christmas tree purposes.

e. Water quality improvement projects to improve or protect water quality, riparian areas, forest wetlands and forest watersheds through the establishment, maintenance, renovation, and/or restoration of approved projects.

f. Fish and wildlife habitat improvement projects to create, protect, or maintain fish and wildlife habitat through establishment, maintenance, and restoration projects.

g. Forest health projects to improve, protect or restore forest health relative to detection of or damage by insects, diseases, and animals affecting established stands. The project does not include cost-sharing for applications of chemical or biological agents for control of forest pests.

h. Wildfire and catastrophic event rehabilitation projects to restore and rehabilitate forests following catastrophic natural events such as wildfire, wind, and ice storms. Such activities may include stabilizing firebreak soils or burned areas, tree designation for stand improvement, and thinning.

§ 9-2505. State assistance application procedure.

1. A landowner may submit an application to the commissioner, in such form and containing such information as the commissioner may require, for state assistance payments toward the cost of a qualifying project on eligible land.

2. The commissioner shall review such project application and may approve, disapprove or recommend modifications thereto consistent with applicable law, criteria, standards or rules and regulations relative to such projects.

§ 9-2507. Regulations.

The department shall promulgate any rules and regulations necessary to implement and administer this title including but not limited to the amount or percentage for funding matches, application procedures, review processes, and project approval guidelines and criteria.

§ 9-2509. Contracts for state assistance payments.

The commissioner shall impose such contractual requirements and conditions upon any landowner and any independent third party organization which receive funds pursuant to this title as may be necessary and appropriate to assure that a public benefit shall accrue from the use of public funds by such landowner and independent third party organization.

§ 9-2511. Powers and duties of the commissioner.

In administering the provisions of this title the commissioner:

1. shall make an itemized estimate of funds or appropriations requested annually for inclusion in the executive budget;

2. may, in the name of the state, as further provided within this title, contract to make, within the limitations of appropriation available therefor, state assistance payments toward the costs of an approved project on eligible land. Such contracts shall be subject to approval by the state comptroller and, as to form, by the attorney general;

3. shall approve vouchers for the payments pursuant to an approved contract. All such payments shall be paid on the audit and warrant of the state comptroller; and

4. may perform such other and further acts as may be necessary, proper or desirable to carry out the provisions of this article.

§ 7. Subdivision 1 of section 163 of the state finance law is amended by adding a new paragraph l to read as follows:

l. "Wood products" shall mean any items made of wood or wood fiber from any species of tree.

§ 8. Subdivision 6 of section 163 of the state finance law, as amended by chapter 569 of the laws of 2015, is amended to read as follows:

6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding eighty-five thousand dollars

without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns or those certified pursuant to articles fifteen-A and seventeen-B of the executive law, or commodities or technology that are recycled or remanufactured, or commodities that are food, including milk and milk products, grown, produced or harvested in New York state**; or wood products made from wood or wood fiber, grown and manufactured in New York state** in an amount not exceeding two hundred thousand dollars without a formal competitive process.

§ 9. Subdivision 6-c of section 163 of the state finance law, as added by section 2 of part P of chapter 55 of the laws of 2013, is amended to read as follows:

6-c. Pursuant to the authority provided in subdivision six of this section, for the purchase of commodities that are food, including milk and milk products, grown, produced or harvested in New York state, **or wood products made from wood or wood fiber, grown and manufactured in New York state** where such commodities exceed fifty thousand dollars in value, state agencies must advertise the discretionary purchase on the state agency website for a reasonable period of time and make the discretionary purchase based on the lowest price that meets the state agency's form, function and utility.

§ 10. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 11. This act shall take effect immediately, provided however the amendments to sections 480-a and 480-b of the real property tax law made by sections three and four of this act shall take effect on January 1, 2019, provided further that the amendments to section 163 of the state finance law made by sections seven, eight and nine of this act shall not affect the repeal of such section and shall be deemed repealed therewith, provided further that, the forestry exemption assistance in subdivision 13 of section 480-a of the real property tax law as added by section three of this act shall apply beginning with final tax rolls filed in 2019.

PART AA

Section 1. Subdivision 3 of section 92-s of the state finance law, as amended by section 2-a of part JJ of chapter 58 of the laws of 2017, is amended to read as follows:

3. Such fund shall consist of the amount of revenue collected within the state from the amount of revenue, interest and penalties deposited pursuant to section fourteen hundred twenty-one of the tax law, the amount of fees and penalties received from easements or leases pursuant to subdivision fourteen of section seventy-five of the public lands law and the money received as annual service charges pursuant to section four hundred four-n of the vehicle and traffic law, all moneys required to be deposited therein from the contingency reserve fund pursuant to

section two hundred ninety-four of chapter fifty-seven of the laws of nineteen hundred ninety-three, all moneys required to be deposited pursuant to section thirteen of chapter six hundred ten of the laws of nineteen hundred ninety-three, repayments of loans made pursuant to section 54-0511 of the environmental conservation law, all moneys to be deposited from the Northville settlement pursuant to section one hundred twenty-four of chapter three hundred nine of the laws of nineteen hundred ninety-six, provided however, that such moneys shall only be used for the cost of the purchase of private lands in the core area of the central Suffolk pine barrens pursuant to a consent order with the Northville industries signed on October thirteenth, nineteen hundred ninety-four and the related resource restoration and replacement plan, the amount of penalties required to be deposited therein by section 71-2724 of the environmental conservation law, all moneys required to be deposited pursuant to article thirty-three of the environmental conservation law, all fees collected pursuant to subdivision eight of section 70-0117 of the environmental conservation law, all moneys collected pursuant to title thirty-three of article fifteen of the environmental conservation law, beginning with the fiscal year commencing on April first, two thousand thirteen, nineteen million dollars, and all fiscal years thereafter, twenty-three million dollars plus all funds received by the state each fiscal year in excess of the greater of the amount received from April first, two thousand twelve through March thirty-first, two thousand thirteen or one hundred twenty-two million two hundred thousand dollars, from the payments collected pursuant to subdivision four of section 27-1012 of the environmental conservation law and all funds collected pursuant to section 27-1015 of the environmental conservation law, [~~provided such funds shall not be less than four million dollars for the fiscal year commencing April first, two thousand thirteen, and not less than eight million dollars for all fiscal years thereafter~~] and all other moneys credited or transferred thereto from any other fund or source pursuant to law. All such revenue shall be initially deposited into the environmental protection fund, for application as provided in subdivision five of this section.

§ 2. Paragraph (i) of subdivision 2 and paragraphs (k) and (l) of subdivision 3 of section 97-b of the state finance law are REPEALED.

§ 3. Subdivision 1 of section 97-b of the state finance law, as amended by section 5 of part T of chapter 57 of the laws of 2017, is amended to read as follows:

1. There is hereby established in the custody of the state comptroller a nonlapsing revolving fund to be known as the "hazardous waste remedial fund", which shall consist of a "site investigation and construction account", an "industry fee transfer account", an "environmental restoration project account", "hazardous waste cleanup account", **and** a "hazardous waste remediation oversight and assistance account"[~~, a "solid waste mitigation account", and a "drinking water response account"~~].

§ 4. Subdivisions 4 and 7 of section 27-1201 of the environmental conservation law are REPEALED and subdivisions 5, 6, and 8 of section 27-1201 are renumbered subdivisions 4, 5, and 6.

§ 5. Subdivision 6 of section 27-1203 of the environmental conservation law, as added by section 4 of part T of chapter 57 of the laws of 2017, is amended to read as follows:

6. Where the department has determined through a preliminary investigation conducted pursuant to subdivision four of this section that a solid waste site is causing or substantially contributing to contamination of a public drinking water supply, the owner or operator of a

solid waste site shall, at the department's written request, cooperate with any and all remedial measures deemed necessary and which shall be undertaken by the department, in conjunction with the department of health, for the mitigation and remediation of a solid waste site or area which is necessary to ensure that drinking water meets applicable standards, including maximum contaminant levels, notification levels, maximum residual disinfectant levels, or action levels established by the department of health. The department may implement necessary measures to mitigate and remediate the solid waste site within amounts appropriated for such purposes from the solid waste mitigation [~~account~~] **program**.

§ 6. Paragraph b of subdivision 6, subdivision 9, subdivision 11, and paragraph e of subdivision 12 of section 27-1205 of the environmental conservation law, as added by section 4 of part T of chapter 57 of the laws of 2017, are amended to read as follows:

b. the threat makes it prejudicial to the public interest to delay action until a hearing can be held pursuant to this title, the department may, pursuant to paragraph a of subdivision three of this section and within the funds available to the department from the drinking water response [~~account~~] **program**, develop and implement, in conjunction with the department of health, all reasonable and necessary mitigation and remedial measures to address drinking water contamination for such site to ensure that drinking water meets applicable standards, including maximum contaminant levels, notification levels, maximum residual disinfectant levels or action levels established by the department of health. Findings required pursuant to this subdivision shall be in writing and may be made by the commissioner of health on an ex parte basis subject to judicial review.

9. When a municipality develops and implements remediation to address a drinking water contamination site, determined pursuant to subdivision four of this section, and the plan is approved by the department, in conjunction with the department of health, which is owned or has been operated by such municipality or when the department, in conjunction with the department of health, pursuant to an agreement with a municipality, develops and implements such remediation, the commissioner shall, in the name of the state, agree in such agreement to provide from the drinking water response [~~account~~] **program**, within the limitations of appropriations therefor, seventy-five percent of the eligible design and construction costs of such program for which such municipality is liable solely because of its ownership and/or operation of such site and which are not recovered from or reimbursed or paid by a responsible party or the federal government.

11. Moneys for actions taken or to be taken by the department, the department of health or any other state agency pursuant to this title shall be payable directly to such agencies from the drinking water response [~~account~~] **program** pursuant to section ninety-seven-b of the state finance law.

e. The expense of any such mitigation by the department or the department of health shall be paid by the drinking water response [~~account~~] **program**, but may be recovered from any responsible person in any action or proceeding brought pursuant to the state finance law, this title, other state or federal statute, or common law if the person so authorized in writing is an employee, agent, consultant, or contractor of a responsible person acting at the direction of the department, then the expense of any such sampling and analysis shall be paid by the responsible person.

§ 7. The section heading and subdivisions 2 and 3 of section 27-1207 of the environmental conservation law, as added by section 4 of part T of chapter 57 of the laws of 2017, are amended and a new subdivision 5 is added to read as follows:

Use and reporting of the solid waste mitigation [~~account~~] **program** and the drinking water response [~~account~~] **program**.

2. The solid waste mitigation [~~account~~] **program** shall be made available to the department and the department of health, as applicable, for the following purposes:

a. enumeration and assessment of solid waste sites;

b. investigation and environmental characterization of solid waste sites, including environmental sampling;

c. mitigation and remediation of solid waste sites;

d. monitoring of solid waste sites; and

e. administration and enforcement of the requirements of section 27-1203 of this title.

3. The drinking water response [~~account~~] **program** shall be made available to the department and the department of health, as applicable, for the following purposes:

a. mitigation of drinking water contamination;

b. investigation of drinking water contamination;

c. remediation of drinking water contamination; and

d. administration and enforcement of the requirements of this title except the provisions of section 27-1203.

5. All moneys recovered pursuant to title twelve of article twenty-seven of this chapter shall be deposited into the capital projects fund (30000).

§ 8. This act shall take effect immediately.

PART BB

Section 1. Approximately 40 percent of the food produced in the United States today goes uneaten. Much of this organic waste is disposed of in solid waste landfills, where its decomposition accounts for over 15 percent of our nation's emissions of methane, a potent greenhouse gas. Meanwhile, an estimated 2.5 million New Yorkers are facing hunger and food insecurity. Recognizing the importance of food scraps on our environment, economy, and the health of New Yorkers, this act establishes a food scraps hierarchy for the state of New York. The first tier of the hierarchy is source reduction, reducing the volume of surplus food generated. The second tier is recovery, feeding wholesome food to hungry people. Third is repurposing, feeding animals. Fourth is recycling, processing any leftover food such as by composting or anaerobic digestion to create a nutrient-rich soil amendment. This legislation is designed to address each tier of the hierarchy by: encouraging the prevention of food scraps generation by commercial generators and residents; directing the recovery of excess wholesome food from high-volume commercial food scraps generators; and ensuring that a significant portion of inedible food scraps from high-volume food scraps generators is managed in a sustainable manner, and does not end up being sent to landfills or incinerators. In addition, the state is supporting the recovery of wholesome food by providing grants from the environmental protection fund to increase capacity of food banks, conduct food scraps audits of high-volume generators of food scraps, support implementation of pollution prevention projects identified by such audits, and expand capacity of generators and municipalities to donate and recycle food.

§ 2. Article 27 of the environmental conservation law is amended by adding a new title 22 to read as follows:

TITLE 22

FOOD RECOVERY AND RECYCLING

Section 27-2201. Definitions.
27-2203. Designated food scraps generator responsibilities.
27-2205. Transporter responsibilities.
27-2207. Transfer facility or other intermediary responsibilities.
27-2209. Food scraps disposal prohibition.
27-2211. Department responsibilities.
27-2213. Regulations.
27-2215. Exclusions.
27-2217. Preemption and severability.

§ 27-2201. Definitions.

1. "Designated food scraps generator" means a person who generates at a single location an annual average of two tons per week or more of excess food and food scraps, based on a methodology established by the department pursuant to regulations, including, but not limited to, supermarkets, restaurants, higher educational institutions, hotels, food processors, correctional facilities, sports or entertainment venues, and hospitals or other health care facilities. For a location with multiple independent food service businesses, such as a mall or college campus, the entity responsible for contracting with a transporter for solid waste transportation services is responsible for managing excess food and food scraps from the independent businesses for the purposes of determining if the generator is a designated food scraps generator.

2. "Excess food" means wholesome food that is not sold or used by its generator.

3. "Food scraps" means inedible solid or liquid food, trimmings from the preparation of food, food-soiled paper, and excess food that is not donated. Food scraps shall not include used cooking oil, yellow grease or food from residential sources or any food which is subject to a recall or seizure due to the presence of pathogens, including but not limited to: Listeria Monocytogenes, confirmed Clostridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat foods.

4. "Incinerator" shall have the same meaning as such term is defined in section 27-0707 of this article.

5. "Organics recycler" means a facility that recycles food scraps through use as animal feed or a feed ingredient, rendering, land application, composting, aerobic digestion, anaerobic digestion, or fermentation. Animal scraps, food soiled paper, and post-consumer food scraps are prohibited for use as animal feed or as a feed ingredient. The proportion of the product created from food scraps by a composting or digestion facility, including a wastewater treatment plant that operates a digestion facility, or other treatment system, must be used in a beneficial manner as a soil amendment and shall not be disposed of or incinerated. The department may designate other techniques or technologies by regulation, provided they do not include incineration or landfilling. If wastewater treatment plants recycling food scraps can demonstrate to the department's satisfaction that beneficial use of biosolids is not available or not economically feasible, the biosolids may be disposed of in a landfill or incinerated at a facility authorized to accept those wastes.

6. "Person" means any individual, business entity, partnership, company, corporation, not-for-profit corporation, association, governmental

entity, public benefit corporation, public authority, firm, organization or any other group of individuals, or any officer or employee or agent thereof.

7. "Single location" means contiguous property under common ownership, which may include one or more buildings.

8. "Transfer facility" means a facility that receives solid waste for the purpose of subsequent transfer to another facility for further processing, treatment, transfer, or disposal.

§ 27-2203. Designated food scraps generator responsibilities.

1. Beginning January first, two thousand twenty-one:

(a) all designated food scraps generators shall separate their excess food for donation for human consumption to the maximum extent practicable, and in accordance with applicable laws, rules and regulations related to food donation; and

(b) except as provided in paragraph (c) of this subdivision, each designated food scraps generator that is within a forty-mile radius of an organics recycler regulated by the department, to the extent that the recycler has capacity to accept a substantial portion or all of the generator's food scraps as determined by the department on a yearly basis, shall:

(i) separate its remaining food scraps from other solid waste;

(ii) ensure proper storage for food scraps collection on site which shall preclude such materials from becoming odorous or attracting vectors such as a container that has a lid and a latch that keeps the lid closed, is resistant to tampering by rodents or other wildlife and has sufficient capacity;

(iii) have information available and provide training for employees concerning the proper methods to separate and store food scraps; and

(iv) obtain a transporter that will deliver its food scraps to an organics recycler, either directly or through an intermediary, self-haul its food scraps to an organics recycler, either directly or through an intermediary, or provide for organics recycling on-site.

(c) The provisions of paragraph (b) of this subdivision shall not apply to any designated food scraps generator that has all of its solid waste processed in a mixed solid waste composting or other mixed solid waste organics recycling facility.

2. All designated food scraps generators shall submit an annual report to the department on or before March first, two thousand twenty-two, and annually thereafter, in an electronic format. The annual report must summarize the amount of excess food and food scraps generated, the amount of excess food donated, an outline of its efforts to establish a relationship with a food recovery organization, the amount of food scraps recycled, the organics recycler or recyclers and associated transporters used, and any other information as required by the department.

3. A designated food scraps generator may petition the department for a temporary waiver from some or all of the requirements of this title. The petition must include evidence of undue hardship based on: (a) the organics recycler located within a forty-mile radius of the designated food scraps generator not having sufficient capacity; or (b) the unique circumstances of the generator.

The department shall issue a waiver from the recycling requirements of this section pursuant to paragraph (b) of this subdivision if the designated food scrap generator demonstrates that the cost of recycling food scraps is more than the cost of disposing of or incinerating solid waste by providing estimates from two disposal facilities, three haulers, and

two recyclers that are representative of the costs that would be applicable to the generator under normal circumstances. A waiver shall be no longer than one year in duration; provided, however, the department may renew such waiver.

§ 27-2205. Transporter responsibilities.

1. Any transporter that collects source-separated food scraps for recycling from a designated food scraps generator shall:

(a) deliver collected food scraps to a transfer facility or other intermediary that will deliver such food scraps to an organics recycler; or

(b) deliver collected food scraps directly to an organics recycler.

2. Any transporter that collects source-separated food scraps from a designated food scraps generator shall not commingle the food scraps with any other solid waste unless such waste can be processed by an organics recycler.

§ 27-2207. Transfer facility or other intermediary responsibilities.

Any transfer facility or other intermediary that receives source-separated food scraps from a designated food scraps generator must ensure that the food scraps are taken to an organics recycler. No transfer facility or other intermediary may commingle the food scraps with any other solid waste unless such waste can be processed by an organics recycler.

§ 27-2209. Food scraps disposal prohibition.

No incinerator or landfill shall knowingly accept or commingle with solid waste source-separated food scraps from designated food scraps generators required to send food scraps to an organics recycler as outlined under section 27-2203 of this title, either directly or from an intermediary, after January first, two thousand twenty-one, unless the designated food scraps generator has received a temporary waiver under subdivision three of section 27-2203 of this title.

§ 27-2211. Department responsibilities.

1. The department shall publish on its website a list of all designated food scraps generators, organics recyclers, food recovery organizations, and all transporters that manage source-separated food scraps.

2. No later than June first, two thousand twenty, the department shall assess the capacity of organic recyclers and notify designated food scraps generators if they are required to comply with the provisions of paragraph (b) of subdivision one of section 27-2203 of this title.

3. The department shall develop and make available educational materials to assist designated food scraps generators with compliance with this title. The department shall also develop education materials on food waste minimization and encourage municipalities to disseminate these materials both on their municipal websites and in any relevant future mailings to their residents as they may distribute.

§ 27-2213. Regulations.

The department shall promulgate rules and regulations necessary to implement the provisions of this title. At a minimum, the department shall promulgate rules and regulations that set forth the methodology the department will use to determine who is a designated food scraps generator, after consulting with industry representatives, and what process a designated generator must follow to dispute such determination, the waiver process, and how designated food scraps generators shall comply with the provisions of paragraph (a) and subparagraph (i) of paragraph (b) of subdivision one of section 27-2203 of this title.

§ 27-2215. Exclusions.

1. This title shall not apply to any designated food scraps generators located in a city with a population of one million or more which has a local law, ordinance or regulation in place which requires the diversion of excess food and food scraps from disposal.

2. This title does not apply to elementary and secondary schools.

§ 27-2217. Preemption and severability.

1. Any provision of any local law or ordinance, or any regulation promulgated thereto, governing the recycling of food scraps shall upon the effective date of this title be preempted, except in a city with a population of one million of more. However, local laws or ordinances, or parts thereof, affecting the recycling of food scraps that include generators not covered by this title shall not be preempted.

2. The provisions of this title shall be severable and if any portion thereof or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 3. This act shall take effect immediately.

PART CC

Section 1. Subdivisions 10 and 11 of section 57-0107 of the environmental conservation law, as amended by chapter 267 of the laws of 2015, are amended to read as follows:

10. "Central Pine Barrens area" shall mean the contiguous area as described and bounded as follows:

Beginning at a point where the southerly side of Route 25A intersects the easterly side of Miller Place Road; thence southward along the easterly boundary of Miller Place Road to Helme Avenue; thence southward along the easterly boundary of Helme Avenue to Miller Place-Middle Island Road; thence southward along the easterly boundary of Miller Place-Middle Island Road to Whiskey Road; thence westward along the southerly boundary of Whiskey Road to Mount Sinai-Coram Road; thence southward along the easterly boundary of Mount Sinai-Coram Road to Middle Country Road (Route 25); thence westward along the southerly boundary of Route 25 to Patchogue-Mount Sinai Road (County Route 83); thence southward along the easterly boundary of County Route 83 to Bicycle Path Drive; thence southeastward along the easterly side of Bicycle Path Drive to Mt. McKinley Avenue; thence southward along the easterly boundary of Mt. McKinley Avenue to Granny Road; thence northeastward along the northerly boundary of Granny Road to Port Jefferson-Patchogue Road (Route 112); thence southward along the easterly boundary of Route 112 to Horse Block Road (County Route 16); thence eastward along the northerly boundary of County Route 16 to Maine Avenue; thence northward along the westerly boundary of Maine Avenue to Fire Avenue; thence eastward along the northerly boundary of Fire Avenue to John Roe Smith Avenue; thence southward along the easterly boundary of John Roe Smith Avenue to Jeff Street; thence eastward along the northerly boundary of Jeff Street to Hagerman Avenue; thence southward along the easterly boundary of Hagerman Avenue to the Long Island Expressway (Route 495); thence eastward along the northerly boundary of Route 495 to the westerly side of Yaphank Avenue (County Road 21); thence southward along the westerly side of Yaphank Avenue to the south side of the Long Island Expressway (Route 495); thence eastward along the southerly side of the Long Island Expressway (Route 495) to the easterly side of Yaphank Avenue; thence southward along the easterly side of Yaphank Avenue, crossing Sunrise Highway (Route 27) to the south side of Montauk Highway

(County Road 80); thence southwestward along the south side of Montauk Highway (County Road 80) to South Country Road; thence southward along the easterly side of South Country Road to Fireplace Neck Road; thence southward along the easterly side of Fireplace Neck Road to Beaver Dam Road; thence eastward along the northerly side of Beaver Dam Road to the westerly boundary of the Carmans River and the lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"); thence generally westerly and southerly to the waters of Bellport Bay; thence generally easterly across the Bay and northerly along the easterly boundary of the Refuge, including all lands currently part of the Refuge and any lands which may become part of the Refuge in the future, to the east side of the southern terminus of Smith Road; thence northward along the easterly side of Smith Road to the southwesterly corner of the property identified as District 200, Section 974.50, Block 1, Lot 11; thence eastward, northward and westward in a counter-clockwise direction along the southern, eastern and northern boundaries of that property to the easterly side of Smith Road; thence northward along the east side of Smith Road to Merrick Road; thence northeasterly along the northerly side of Merrick Road to the easterly side of Surrey Circle and the southwest corner of the property identified as District 200, Section 880, Block 3, Lot 58.1; running thence easterly along the southerly side of said lot to the west side of William Floyd Parkway (County Road 46); thence northerly along the westerly side of William Floyd Parkway (County Road 46), crossing Route 27, to the Long Island Railroad (LIRR); thence eastward along the northerly boundary of the Long Island Rail Road tracks 7,500 feet; thence southward 500 feet; thence eastward 525 feet to the intersection of North Street and Manor-Yaphank Road; thence southward along the easterly boundary of Manor-Yaphank Road to Moriches-Middle Island Road; thence eastward along the northerly boundary of Moriches-Middle Island Road to Sunrise Highway (Route 27); thence eastward along the northerly boundary of Route 27 to an old railroad grade (unpaved); thence southeastward along the northerly boundary of the old railroad grade (unpaved) to Old County Road (Route 71); thence eastward along the northerly boundary of Route 71 to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to Montauk Highway; thence eastward along the northerly boundary of Montauk Highway to Route 24; thence northward along the westerly boundary of Route 24 to Sunrise Highway (Route 27); thence eastward along the northerly boundary of Route 27 to Squiretown Road; thence northward along the westerly boundary of Squiretown Road to Upper Red Creek Road; thence westward along the southern boundary of Upper Red Creek to Lower Red Creek Road; thence southward along the easterly boundary of Lower Red Creek Road to Hubbard County Park; thence westward along the northern boundary of Hubbard County Park to Riverhead-Hampton Bays Road (Route 24); thence westward along the southerly boundary of Route 24 to Peconic Avenue; thence northward along the westerly boundary of Peconic Avenue to the Riverhead-Southampton border; thence westward along the Riverhead-Southampton border and the Riverhead-Brookhaven border to the Forge Road Bridge; thence northward along the westerly boundary of the Forge Road Bridge to Forge Road; thence northwestward along the westerly boundary of Forge Road to the railroad tracks; thence northward along the westerly boundary of Forge Road (unpaved) to the intersection of Route 25 and River Road; thence westward along the southerly boundary of River Road to Edwards Avenue; thence northward along the westerly boundary of Edwards Avenue 3,800 feet; thence westward 4,400 feet to an unnamed, unpaved road; thence northward along the

westerly boundary of the unnamed, unpaved road 150 feet; thence westward and northwestward along the eastern boundary of the United States Navy/Grumman Aerospace Corporation property (as of 1982) up to its intersection with Middle Country Road (Route 25); thence westward along the southerly boundary of Route 25 to the intersection of Route 25 and 25A; thence northeastward, westward, and southwestward along the eastern and northern boundary of the United States Navy/Grumman Aerospace Corporation (as of 1982) and located immediately east of Route 25A, to its intersection with Route 25A; **thence westward along the southerly boundary of Route 25A to a point due south of the southeast corner of the parcel identified as District 200, Section 128, Block 1, lot 3.1; thence northeastward, northward and westward along the southerly, easterly and northerly sides of the parcel identified as District 200, section 128, Block 1, lot 1 to the southeast corner of the parcel identified as District 200, Section 82, Block 1, Lot 5.2; thence northward along the east side of this parcel to North Country Road; thence northward crossing North Country Road to its northerly side; thence eastward along the northerly side of North Country Road to the Brookhaven Town-Riverhead Town line; thence in a generally northwestward direction along said town line to a point in Wading River Creek with the coordinates 40.96225 latitude and -72.863633 longitude; thence westward a distance of approximately 90 feet to the easterly side of LILCO Road; thence southward along LILCO Road to its intersection with the north side of North Country Road; thence westward along the north side of North Country Road to the southeast corner of the parcel identified as District 200, Section 39, Block 1, Lot 2; thence in a northward and westward direction along the easterly and northerly sides of said parcel to its northwest corner; thence northward along the westerly boundary of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 to its northwest corner; and thence continuing in a westward direction along the northerly side of the parcel identified as District 200, Section 39, Block 1, Lot 1.2 and the southerly extent of Long Island Sound to the northwest corner of the property identified as District 200, Section 39, Block 1, Lot 1.2; thence southward along the westerly boundary of said property to North Country Road; thence west along the southerly boundary of North Country Road to the northwestern corner of property identified as District 200, Section 82, Block 1, Lot 1.1; thence south along the westerly boundary of said property and the westerly boundary of the property identified as District 200, Section 82, Block 1, Lot 1.2 to the northwest corner of property identified as District 200, Section 82, Block 1, Lot 5.1; thence southward along the westerly boundary of said property to the northeast corner of the property identified as District 200, Section 105, Block 3, Lot 5, thence southward along the easterly boundary of said property to the north side of Route 25A; thence southward crossing Route 25A to its south side;** thence westward along the southerly boundary of Route 25A to the point or place of beginning, and excluding [~~one~~] **two** distinct [~~area~~] **areas** described as follows: The **first** area defined as beginning at a point where the westerly side of William Floyd Parkway (County Road 46) meets northerly side of the Long Island Railroad (LIRR); thence westward along the northerly side of the LIRR to Moriches-Middle Island Road; thence generally northwestward along the northerly side of Moriches-Middle Island Road to the southerly side of Long Island Expressway (Route 495); thence eastward along the southerly side of the Long Island Expressway (Route 495) to the westerly side of William Floyd Parkway (County Road 46); thence southward along the westerly side of William Floyd Parkway (County Road 46) and containing

the subdivision known as RB Industrial Park, to the point or place of beginning **and the second area defined as the property described as District 200, Section 39, Block 1, Lot 1.1**.

11. "Core preservation area" shall mean the core preservation area of the Central Pine Barrens area which comprise the largest intact areas of undeveloped pine barrens as described and bounded as follows:

Beginning at a point where the northwestern corner of the New York State Rocky Point Natural Resource Management Area (the "NYS Rocky Point Land") intersects the southerly side of NYS Route 25A; thence generally southward and eastward along the generally westerly and southerly boundaries of the NYS Rocky Point Land (including the Currans Road Pond State Wildlife Management Area, all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, and the crossings of the undeveloped Suffolk County property known as the Port Jefferson - Westhampton road right of way, Whiskey Road, County Route 21, and Currans Road), and including those properties identified as District 200, Section 346, Block 1, Lots 3 and 4, to the point where the NYS Rocky Point Land meets the northerly side of NYS Route 25 (Middle Country Road); thence eastward along the northerly boundary of NYS Route 25 to the southeastern corner of that property west of Woodlots Road which is identified as District 200, Section 349, Block 2, Lot 1.3; thence northward along the easterly boundary of that property to the Suffolk County Pine Trail Nature Preserve; thence eastward and southeastward along the southerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels or parcels in agricultural or horticultural use, or along a line parallel to, and 100 (one hundred) feet south of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to County Route 46; thence southward along the easterly boundary of County Route 46 to NYS Route 25; thence eastward along the southerly boundary of NYS Route 25 to the Suffolk County Pine Trail Nature Preserve; thence southward along the westerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet west of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the northern boundary of the United States land known as Brookhaven National Laboratory; thence generally westward along the northerly boundary of Brookhaven National Laboratory to County Route 46 (William Floyd Parkway); thence generally northwestward on a straight line to the intersection of Sally Lane and Pond Lane; thence westward along the southerly side of Pond Lane to Ruth Lane; thence northward along the westerly side of Ruth Lane to NYS Route 25; thence westward along the northerly side of NYS Route 25 to the southeast corner of the NYS Middle Island State Game Farm and Environmental Education Center; thence northward, westward, and southward along the easterly, northerly, and westerly boundaries of the NYS Middle Island State Game Farm and Environmental Education Center to NYS Route 25; thence westward along the southerly side of NYS Route 25, excluding all parcels abutting that road which are developed as of June 1, 1993, to Giant Oak Road; thence southward along the easterly side of Giant Oak Road to Medford Road; thence southwestward along the southeasterly side of Medford Road crossing to the west side of Smith Road; thence southerly along the westerly side of Smith Road to the southeast corner of District 200, Section 406, Block 1, Lot 6; thence westward and northward along the southerly and westerly sides of said parcel to the southerly side of the developed lands known as Strathmore Ridge; thence westward,

northward and eastward along the southerly, westerly and northerly sides of the developed lands known as Strathmore Ridge to the westerly side of Smith Road; thence northerly along the westerly side of Smith Road to the southerly side of NYS Route 25; thence westerly along the southerly side of NYS Route 25, to the northwestern corner of that property which is identified as District 200, Section 406, Block 1, Lot 4.3; thence southerly along the westerly boundary of that property and continuing southward along the westerly sides of the properties identified as District 200, Section 406, Block 1, Lot 4.6; District 200, Section 406, Block 1, Lot 4.4 and District 200, Section 504, Block 1, Lot 2 to the southerly side of Longwood Road; thence eastward along the southerly side of Longwood Road to the northwest corner of the property identified as District 200, Section 504, Block 1, Lot 7.2; thence southward and westward along the generally westerly boundary of that parcel to the eastern end of Rugby Lane (also known as Rugby Avenue or Rugby Road), a paper street shown on Suffolk County tax maps District 200, Sections 500, 502, and 503; thence westward along the northerly boundary of Rugby Lane, across County Route 21, to the westerly boundary of County Route 21 (Yaphank - Middle Island Road); thence southward along the westerly boundary of County Route 21 to the northeastern corner of the parcel identified as District 200, Section 529, Block 1, Lot 28, and which is coterminous with the southerly boundaries of the parcels located on the south side of Rustic Lane; thence westward along the northerly boundary of that parcel to the southwest corner of the parcel identified as District 200, Section 528, Block 5, Lot 2; thence northward along a portion of the easterly boundary of the Carmans River, which comprises the easterly boundary of the parcel identified as District 200, Section 528, Block 5, Lot 1, to its intersection with the southern boundary of the Suffolk County Nature Preserve parcel identified as District 200, Section 500, Block 1, Lot 1.4; thence eastward along the southern boundary of that parcel to the southeast corner of that parcel; thence northward along the easterly boundary of that Suffolk County Nature Preserve parcel to the southeast corner of the Suffolk County Nature Preserve parcel identified as District 200, Section 500, Block 1, Lot 3.1, thence generally northward along the easterly boundary of that parcel to the north side of East Bartlett Road; thence easterly along the north side of East Bartlett Road to the east side of County Road 21; thence southerly along the east side of County Road 21 to the southwest corner of District 200, Section 501, Block 1, Lot 2.1; thence easterly and northerly along the southern and eastern sides of that property and northward along the easterly side of District 0200, 50100, Block 0100, Lot 002002 and across to the north side of Longwood Road; thence westerly along the north side of Longwood Road to the southeast corner of District 200, Section 482, Block 1, Lot 3.1; thence northward and eastward along the easterly and southerly boundaries of that parcel to the northwest corner of the parcel identified as District 200, Section 483, Block 2, Lot 1.4; thence eastward along the southerly property boundary of the parcel identified as District 200, Section 482, Block 1, Lot 4 to the southeast corner of that parcel; thence northward along the easterly boundary of that parcel to the northeast corner of that parcel; thence eastward and northward along the southerly and easterly boundaries of the parcel identified as District 200, Section 456, Block 2, Lot 4 to the northeast corner of that parcel; thence generally northerly and westerly along the easterly and northerly boundary of Prosser Pines County Nature Preserve to County Road 21; thence westward (directly across County Route 21) along the southerly boundary of the property identified as District 200,

Section 434, Block 1, Lot 12.1, to the southwest corner of the property identified as District 200, Section 434, Block 1, Lot 14.3, adjacent to the eastern side of Cathedral Pines County Park; thence northward along the eastern boundary of Cathedral Pines County Park to the southeast corner of the property identified as District 200, Section 402, Block 1, Lot 23.1, thence continuing northward along the easterly boundary of that property to the southerly side of Lafayette Road; thence westward along the southerly side of Lafayette Road to the eastern boundary of the property identified as District 200, Section 402, Block 1, Lot 24.7; thence generally in a counter-clockwise direction along the easterly, northerly, westerly and northerly boundaries of that property to the easterly boundary of the parcel identified as District 200, Section 402, Block 1, Lot 19.2; thence northerly along the easterly side of said lot to the southeast corner of the property identified as District 200, Section 402, Block 1, Lot 20, thence westward and northward along the southerly and westerly sides of that property to the southerly side of NYS Route 25; thence westward along the southerly boundary of NYS Route 25 to the northwestern corner of the parcel identified as District 200, Section 402, Block 1, Lot 16.4; thence generally southward along the westerly boundary of that parcel to the northerly boundary of the parcel identified as District 200, Section 454, Block 1, Lot 9.1; thence westward along the northerly boundary of that parcel to East Bartlett Road; thence southward along the easterly boundary of East Bartlett Road to its intersection with Ashton Road; thence westward to the northeastern corner of the old filed map shown on District 200, Section 499; thence westward and southward along the northerly and westerly boundaries of the old filed map shown on Suffolk County tax maps District 200, Sections 498, 499, and 527 to Hillcrest Road; thence eastward along the southerly boundary of Hillcrest Road to Ashton Road; thence southward along the easterly side of Ashton Road to Granny Road; thence eastward along the southerly side of Granny Road to the northwesterly corner of District 200, Section 547, Block 1, Lot 18.1; thence generally southward, westward, southward, eastward and northward in a counter-clockwise direction along the western, northern, southern and eastern boundaries of said parcel to the southeast corner of the parcel identified as District 200, Section 548, Block 1, Lot 3; thence northward along the easterly boundary of that parcel to its northeast corner; thence generally northward, northeastward and eastward along the westerly, northwesterly and northerly sides of German Boulevard to its intersection with the northeasterly side of Lakeview Boulevard; thence southeastward along the northeasterly side of Lakeview Boulevard to the westerly boundary of the parcel identified as District 200, Section 611, Block 1, Lot 5; thence northward along the westerly boundary of that parcel to its northwest corner; thence southward along the westerly boundary of the parcel identified as District 200, Section 579, Block 3, Lot 1, comprising part of the western bank of the Carmans River also known as Upper Lake, to the northerly side of Mill Road, also known as County Route 101; thence eastward along the northerly side of Mill Road to the northeast corner of the parcel identified as District 200, Section 579, Block 3, Lot 19; thence westerly along the northerly boundary of that parcel to the eastern boundary of the parcel identified as District 200, Section 579, Block 3, Lot 1; thence northward along the easterly side of that parcel, comprising part of the eastern bank of the Carmans River also known as Upper Lake, to the southwest corner of the parcel identified as District 200, Section 548, Block 2, Lot 5.1; thence eastward along the southern boundary of that parcel to its southeast corner;

thence eastward across County Route 21 to its easterly side; thence northward along the easterly boundary of County Route 21 to the southwest corner of the Suffolk County Nature Preserve parcel known as Warbler Woods and identified as District 200, Section 551, Block 1, Lot 4; thence generally eastward along the southerly boundary of the Warbler Woods parcel and then southward along the westerly boundary of an extension of that parcel's southerly boundary to the southeast corner of the southern terminus of Harold Road; thence generally westward, southward and westward in a counter-clockwise direction along the northerly, westerly, northerly and westerly boundaries of the Suffolk County Nature Preserve parcel known as Fox Lair, and identified as District 200, Section 580, Block 3, Lot 24.2, to the northwest corner of the parcel Suffolk County Water Authority parcel identified as District 200, Section 580, Block 3, Lot 24.6; thence southward, eastward and southward along the westerly boundary and southerly boundaries of that Suffolk County Water Authority parcel to Main Street; thence eastward along the north side of Main Street to the southeast corner of said Suffolk County Water Authority parcel to its southeast corner; thence northward along the easterly boundary of that parcel to the southwest property boundary of the Suffolk County Nature Preserve parcel known as Fox Lair and identified as District 200, Section 580, Block 3, Lot 24.2, thence generally eastward, southward, eastward, northward and eastward along the southerly boundaries of said parcel and eastward along the southerly boundary of the Suffolk County Nature Preserve parcel identified as District 200, Section 583, Block 1, Lot 4.1, to the west side of the unimproved north-south oriented road known variously as Smith Road, Longwood Road and Private Road; thence southward along the westerly boundary of Smith Road to the north side of the Long Island Expressway; thence westward along the northerly boundary of the Long Island Expressway to the south side of Main Street in Yaphank; thence westward along the southerly boundary of Main Street in Yaphank to the westernmost extent along Main Street of the Southaven County Park boundary; thence westward across County Road 21 to the western boundary of the County Road 21 right-of-way; thence southward along the western boundary of the County Road 21 right-of-way to the northerly side of the parcel identified as District 200, Section 611, Block 3, Lot 16, comprising the northerly bank of the Carmans River known as Lower Lake; thence westward along the northerly side of that property to the southwest corner of the parcel identified as District 200, Section 612, Block 4, Lot 1; thence northward along the westerly boundary of that parcel to the southerly side of County Route 21 known as Main Street; thence westward along the southerly side of County Route 21 known as Main Street to the northeast corner of the parcel identified as District 200, Section 612, Block 2, Lot 12; thence southward along the easterly boundary of that parcel to the southeast corner of the parcel identified as District 200, Section 612, Block 2, Lot 11; thence westward and northwestward along the northerly and northeasterly boundaries of the Town of Brookhaven parcel identified as District 200, Section 611, Block 3, Lot 9 to the south side of Mill Road, also known as County Road 101; thence generally westward and southward along the southerly side of Mill Road and continuing southward along the eastern side of Patchogue-Yaphank Road, also known as County Road 101, to the southerly side of Gerard Road; thence eastward along the southerly side of Gerard Road to its westerly boundary known as the map of Grand Heights, filed in the offices of the Suffolk County clerk; thence southward along the westerly map line of the filed map known as Grand Heights to the north side of the Long Island Expressway NYS Route 495; thence

easterly along the northerly side of the Long Island Expressway NYS Route 495 to the westerly side of County Route 21 known as Yaphank Avenue; thence southward along the westerly side of Yaphank Avenue to the south side of the Long Island Expressway; thence eastward along the south side of the Long Island Expressway to the westerly boundary of Southaven County Park, thence generally southward along the westerly boundary of Southaven County Park to the northeast corner of the lands of Suffolk County identified as District 200, Section 665, Block 2, Lot 1; thence generally southward along the easterly boundary of said lot, crossing the LIRR and Park Street and continuing southward along the westerly boundary of Davenport Avenue as shown on the old filed map known as Bellhaven Terrace; thence southward and eastward along the westerly and southerly boundaries of the parcel identified as District 200, Section 744, Block 1, Lot 10 to the westerly boundary of the parcel identified as District 200, Section 781, Block 1, Lot 3.1; thence continuing southerly along the westerly boundary of that parcel to the easterly boundary of Gerard Road; thence southward along the easterly boundary of Gerard Road to Victory Avenue; thence eastward along the northerly boundary of Victory Avenue to a point where the west bank of the Carmans River passes under Victory Avenue and Route 27; thence south under Route 27 to the southerly side of Montauk Highway also known as County Road 80; thence westward along the southerly side of Montauk Highway County Road 80, including lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"), to the eastern side of Old Stump Road; thence southward along the easterly side of Old Stump Road to the northerly side of Beaver Dam Road; thence eastward along the northerly side of Beaver Dam Road to the lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge"), including the Carmans River; thence generally westerly and southerly to the waters of Bellport Bay; thence generally easterly across the Bay and northerly along the easterly boundary of the Refuge, including all lands currently part of the Refuge and any lands which may become part of the Refuge in the future to the east side of the southern terminus of Smith Road; thence northward along the easterly side of Smith Road to the southwesterly corner of the property identified as District 200, Section 974.50, Block 1, Lot 11; thence eastward, northward and westward in a counter-clockwise direction along the southern, eastern and northern boundaries of that property to the easterly side of Smith Road; thence northward along the easterly side of Smith Road to the northerly side of Montauk Highway County Road 80; thence northeasterly to the southwesterly corner of the property identified as District 200, Section 849, Block 2, Lot 2; thence eastward along the northerly boundary of Montauk Highway to the southeasterly corner of the property identified as District 200, Section 850, Block 3, Lot 8; thence northward to the northeasterly corner of that parcel, including all lands owned by the United States known as Wertheim National Wildlife Refuge (the "Refuge") at any time between June 1, 1993 and the present, and any lands which may become part of the Refuge in the future; thence northwestward across Sunrise Highway (NYS Route 27) to the southwesterly corner of the property identified as District 200, Section 850, Block 2, Lot 1; thence northward along the westerly boundary of that parcel across to the northerly boundary of Victory Avenue; thence westward along the northerly boundary of Victory Avenue to the westerly boundary of River Road; thence northward along the westerly boundary of River Road to the north side of the Long Island Rail Road right-of-way; thence easterly along the northerly side of the Long Island Rail Road right-of-way to the north side of Morich-

es-Middle Island Road; thence generally northward and westward along the northerly side of Moriches-Middle Island Road to the northerly side of the Long Island Expressway; thence westward along the northerly boundary of the Long Island Expressway to the southeasterly corner of the Longwood Greenbelt property (the property identified as District 200, Section 583, Block 2, Lot 1.1); thence northward along the easterly boundary of the Longwood Greenbelt property to its northeast corner; thence eastward to the southwesterly corner of the property known as District 200, Section 552, Block 1, Lot 8; thence generally northeastward along the easterly boundary of the property identified as District 200, Section 552, Block 1, Lot 1.7 to the northeasterly corner of that parcel; thence eastward along the southerly boundaries of the parcels identified as District 200, Section 504, Block 1, Lot 8, and District 200, Section 504, Block 1, Lot 11, to the westerly boundary of the William Floyd Parkway (County Route 46); thence northward along the westerly side of County Route 46 to a point 2000 (two thousand) feet south of the southern bank of the Peconic River crossing of County Route 46; thence generally southeastward along a line parallel to, and 2000 (two thousand) feet generally south or southwest of, and parallel to, the southernmost bank of the Peconic River to a point where the Peconic River crosses the unpaved, unnamed, north-south firebreak and patrol road on the eastern half of the Brookhaven National Laboratory property; thence southward and southwestward along the easterly and southeasterly boundaries of the unpaved, unnamed, north-south firebreak and patrol road starting on the eastern half of the Brookhaven National Laboratory property to the Brookhaven National Laboratory road known as Brookhaven Avenue; thence due westward along a straight line to the Brookhaven National Laboratory road known as Princeton Avenue; thence westward along the southerly boundary of Princeton Avenue to the unnamed Laboratory road which diverts southwest in the vicinity of the Laboratory gate house; thence southwestward along the southerly side of the unnamed Laboratory road just described to County Route 46; thence southward along the easterly side of County Route 46 to NYS Route 495; thence eastward along the northerly boundary of NYS Route 495 to County Route 111; thence southeastward along the northerly boundary of County Route 111 to NYS Route 27 (Sunrise Highway); thence generally southward across NYS Route 27 to the westernmost extent along NYS Route 27 of the undeveloped portion (as of June 1, 1993) of the parcel assemblage comprised of those parcels identified as District 200, Section 594, Block 2, Lot 4 and District 900, Section 325, Block 1, Lot 41.2; thence southward along the westerly boundary of the undeveloped portion (as of June 1, 1993) of that parcel assemblage to County Route 71 (Old Country Road); thence eastward along the northerly boundary of County Route 71 to the southeastern corner of the Suffolk County Nature Preserve lands which run from NYS Route 27 south to County Route 111 and which adjoin the easterly side of the preceding assemblage; thence northward along the easterly boundary of that Suffolk County Nature Preserve assemblage (crossing the County Route 111 right of way) to NYS Route 27; thence eastward along the southerly boundary of NYS Route 27 to the westerly end of 19th Street as shown in the old filed map contained within the tax map identified as District 900, Section 276, Block 2; thence southward along the westerly boundary of that old filed map (shown in District 900, Sections 276, 302, 303, 327, and 328), and coterminous with the westerly side of those parcels along the westerly side of Oishei Road, to County Route 71; thence eastward along the northerly boundary of County Route 71 to the southeasterly corner of the parcel identified as District 900,

Section 328, Block 2, Lot 19; thence northward along the easterly boundary of that old filed map surrounding Oishei Road, and coterminous with the easterly side of those parcels along the easterly side of Oishei Road, to a point along that line due west of the northwesterly corner of the parcel containing the Suffolk County facilities identified as District 900, Section 331, Block 1, Lot 1; thence due eastward along a straight line to the northwesterly corner of that parcel; thence eastward along the northerly boundary of that parcel to its northeasterly corner shown in District 900, Section 307; thence due eastward along a straight line to Summit Boulevard; thence southward along the westerly side of Summit Boulevard to County Route 71; thence eastward along the northerly side of County Route 71, excluding all parcels abutting that road which are developed as of June 1, 1993, to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to County Route 31 (Old Riverhead Road); thence northward along the westerly boundary of County Route 31 to that point opposite the point along the easterly side of County Route 31 (north of the Stewart Avenue intersection) at which the undeveloped portion (as of June 1, 1993) of the Suffolk County Airport (Gabreski Airport) occurs; thence generally northward, eastward and southward around the westerly, northerly and easterly boundaries of the undeveloped portion (as of June 1, 1993) of the airport property (excluding from the Core Preservation Area those portions of the airport property which are occupied by the runways, their associated maintenance areas, and those areas identified for future use in the Suffolk County Airport Master Plan approved by the County Legislature) to the Long Island Rail Road tracks (including in the Core Preservation Area those portions of the airport property which are adjacent to the Quogue Wildlife Refuge's westerly boundary and which are in their natural state); thence eastward along the northerly boundary of the Long Island Rail Road tracks to the southeasterly corner of the Town of Southampton parcel identified as District 902, Section 1, Block 1, Lot 22.1; thence generally northward and eastward along the easterly border of that parcel and the Town of Southampton parcels to the immediate north identified as District 900, Section 313, Block 1, Lot 42.1 and District 900, Section 287, Block 1, Lot 1.55 to County Route 104; thence northward along the westerly boundary of County Route 104 to a point 1000 (one thousand) feet southward of NYS Route 27; thence eastward along a line parallel to, and 1000 (one thousand) feet south of, NYS Route 27, to the westerly boundary of the parcel identified as District 900, Section 252, Block 1, Lot 1; thence southward along the westerly boundary of that parcel to the Long Island Rail Road tracks; thence eastward along the northerly boundary of the Long Island Rail Road tracks to Montauk Highway; thence eastward along the northerly boundary of Montauk Highway to that point where the boundary of Sears-Bellows County Park heads northward along the eastern side of the Munns Pond portion; thence northward along the easterly boundary of Sears-Bellows County Park, to NYS Route 27; thence eastward along the northerly boundary of NYS Route 27 to NYS Route 24 (Riverhead - Hampton Bays Road); thence generally northwestward and westward along the southwesterly boundary of NYS Route 24 to the easternmost extent along NYS Route 24 of the Suffolk County Parkland known as Flanders or Hubbard County Park; thence generally northward, westward, and southward along the easterly, northerly, and westerly boundaries of Flanders or Hubbard County Park, including all adjacent or contiguous undeveloped Town of Southampton parks, preserves, open space areas, or reserved areas, to NYS Route 24; thence westward along the southerly boundary of NYS Route

24 to Pleasure Drive; thence southward along the easterly boundary of Pleasure Drive a distance of 2000 (two thousand) feet, excluding all parcels abutting that road which are developed as of June 1, 1993; thence generally westward along a straight line to the southernmost extent of the NYS David Sarnoff Preserve along the westerly boundaries of the parcels on the westerly side of Brookhaven Avenue; thence generally northward and westward along the easterly and northerly boundary of the NYS David Sarnoff Pine Barrens Preserve, crossing County Routes 105 and 104, to County Route 63 (Riverhead-Moriches Road); thence generally westward and northward along the northerly boundary of the Suffolk County Cranberry Bog County Nature Preserve to County Route 51; thence southwesterly along the westerly side of County Route 51 to the boundary of the Cranberry Bog County Nature Preserve; thence westward and northward along the northeasterly boundary of Cranberry Bog County Nature Preserve to County Route 94 (also known as NYS Route 24, or Nugent Drive); thence eastward along the northerly side of County Route 94 to the County Route 94A bridge; thence northward along the westerly side of the County Route 94A bridge to the Riverhead-Southampton border; thence westward along the Riverhead-Southampton border, and the Riverhead-Brookhaven Border, to the Forge Road Bridge; thence northward along the westerly boundary of the Forge Road Bridge to Forge Road; thence northwestward along the westerly boundary of Forge Road to the Long Island Rail Road tracks; thence northward along the westerly boundary of Forge Road (unpaved) to the intersection of NYS Route 25 and River Road; thence westward along the southerly boundary of River Road to Edwards Avenue; thence westward along the southerly boundary of River Road (Grumman Boulevard or Swan Pond Road) to the southeast corner of that parcel containing Conoe (or Canoe) Lake and identified as District 600, Section 137, Block 1, Lot 1; thence northward, westward, and southward along the borders of that parcel containing Conoe (or Canoe) Lake to River Road (Grumman Boulevard); thence westward along the northerly boundary of Grumman Boulevard to the southeasternmost corner of the undeveloped portion (as of June 1, 1993) of the United States Navy/Grumman Corporation property located on the north side of Grumman Boulevard and adjacent to the Grumman entrance known as the South Gate; thence due north along the easternmost edge of that undeveloped portion (as of June 1, 1993) of the United States Navy/Grumman Corporation property to NYS Route 25; thence along a straight line to the northerly side of NYS Route 25 to a point occupied by the southeasternmost corner of the parcel assemblage comprised of District 600, Section 75, Block 3, Lot 10.1, and District 600, Section 96, Block 1, Lot 14, and otherwise known as Camp Wauwepex; thence northward, westward, and generally southward along the easterly, northerly, and generally westerly boundaries of the Camp Wauwepex assemblage to NYS Route 25; thence westward along the northerly side of NYS Route 25 to Montauk Trail; thence northeastward along the northwesterly side of Montauk Trail to Panamoka Trail; thence northward along the westerly side of Panamoka Trail, excluding all parcels abutting that road which are developed as of June 1, 1993, to Matinecock Trail; thence westward along the southerly side of Matinecock Trail to the easterly boundary of Brookhaven State Park; thence generally northward along the easterly boundary of Brookhaven State Park, including all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, to its intersection with NYS Route 25A; [~~thence westward along the southerly side of NYS Route 25A to the northeast corner of the Shoreham-Wading River school district property;~~] **thence eastward along the southerly boundary**

of Route 25A to a point due south of the southeast corner of the parcel identified as District 200, Section 128, Block 1, Lot 3.1; thence northeastward, northward and westward along the southerly, easterly and northerly sides of the parcel identified as District 200, Section 128, Block 1, Lot 1 to the southeast corner of the parcel identified as District 200, Section 82, Block 1, Lot 5.2; thence northward along the east side of this parcel to its intersection with the south side of North Country Road; thence northward crossing North Country road to its northerly side; thence eastward along the northerly side of North Country Road to the Brookhaven Town-Riverhead Town line; thence in a generally northwestward direction along said town line to a point in Wading River Creek With the coordinates 40.96225 latitude and -72.863633 longitude; thence westward a distance of approximately 90 feet to the easterly side of LILCO Road; thence southward along LILCO Road to its intersection with the north side of North Country Road; thence westward along the north side of North Country Road to the southeast corner of the parcel identified as District 200, Section 39, Block 1, Lot 2; thence in a northward and westward direction along the easterly and northerly sides of said parcel to its northwest corner; thence northward along the westerly boundary of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 to its northwest corner and the shoreline of Long Island Sound; thence westward /along the northerly side of the parcel identified as District 200, Section 83, Block 1, Lot 1.4 and continuing in a westward direction along the northerly side of the parcel identified as district 200, section 39, Block 1, lot 1.2 and the southerly extent of the Long Island Sound to the northwest corner of the property identified as District 200, Section 39, Block 1, Lot 1.2; thence southward along the westerly boundary of said property to North Country Road; thence west along the southerly boundary of North Country Road to the northwestern corner of the property identified as District 200, Section 82, Block 1, Lot 1.1; thence south along the westerly boundary of said property and the westerly boundary of the property identified as District 200, Section 39, Block 1, Lot 1.2 to the northwest corner of property identified as District 200, Section 82, Block 1, Lot 5.1; thence southward along the westerly boundary of said property in a line to the northeast corner of property identified as District 200, Section 105, Block 3, Lot 5; thence southward along the easterly boundary of said property to the north side of Route 25A; thence eastward along the north side of Route 25A to a point directly north of the northeast corner of the Shoreham-Wading River school district property; thence southward, crossing Route 25A to its southerly boundary and the northeast corner of the Shoreham-Wading river school district property; thence southward, westward, and northward along the easterly, southerly, and westerly boundaries of the Shoreham-Wading River school district property to NYS Route 25A; thence westward along the southerly side of NYS Route 25A to County Route 46; thence southward along the easterly side of County Route 46 to its intersection with the Suffolk County Pine Trail Nature Preserve; thence westward along the northerly boundary of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels or parcels in agricultural or horticultural use, or along a line parallel to, and 100 (one hundred) feet north of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the southeastern corner of the parcel west of Woodlots Road and identified as District 200, Section 291, Block 1, Lot 14.1; thence northward and westward along the easterly and northerly boundaries of that parcel to Whiskey Road; thence westward along

the southerly side of Whiskey Road to Wading River Hollow Road; thence northward along the westerly side of Wading River Hollow Road to the boundary of the NYS Rocky Point Land; thence generally northward along the easterly boundary of the NYS Rocky Point Land, including all adjacent or contiguous undeveloped Town of Brookhaven parks, preserves, open space areas, or reserved areas, to NYS Route 25A; thence westward along the southerly side of NYS Route 25A, excluding those parcels abutting that road which are developed as of June 1, 1993, and those lands identified for the reroute of Route 25A by the NYS Department of Transportation, to the northeastern corner of the parcel identified as District 200, Section 102, Block 3, Lot 1.4; thence southward along the westerly boundary of that parcel to the parcel identified as District 200, Section 102, Block 3, Lot 1.6; thence generally westward and southward along the westerly boundaries of that parcel and the adjoining southerly parcel identified as District 200, Section 102, Block 3, Lot 1.5 to the boundary of the NYS Rocky Point Land; thence westward along the northerly boundary of the NYS Rocky Point Land to County Route 21; thence generally westward along a straight line across County Route 21 to the northernmost extent along County Route 21 of the NYS Rocky Point Land; thence generally westward along the generally northerly boundary of the NYS Rocky Point Land to the point or place of beginning, and excluding the area defined as beginning at a point where the southerly boundary of NYS Route 25 meets the easterly side of the Suffolk County Pine Trail Nature Preserve; thence southeastward along the easterly side of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet east of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the Long Island Lighting Company high voltage transmission lines; thence northward along the westerly side of the Long Island Lighting Company high voltage transmission lines to NYS Route 25; thence westward along the southerly side of NYS Route 25 to the point or place of beginning;

and excluding two distinct areas described as follows: Area One is the area defined as beginning at a point where the southerly boundary of NYS Route 25 meets the easterly side of the Suffolk County Pine Trail Nature Preserve; thence southeastward along the easterly side of the Suffolk County Pine Trail Nature Preserve where the Preserve is adjacent to developed parcels, or along a line parallel to, and 100 (one hundred) feet east of, the Preserve where the Preserve is adjacent to parcels which are undeveloped as of June 1, 1993, to the Long Island Lighting Company high voltage transmission lines; thence northward along the westerly side of the Long Island Lighting Company high voltage transmission lines to NYS Route 25; thence westward along the southerly side of NYS Route 25 to the point or place of beginning; Area Two is the area defined as beginning at the northwest corner of the parcel identified as District 200, Section 552, Block 1, Lot 3; thence eastward, southwestward and generally northward along the northerly, southeasterly and westerly boundaries of that parcel, containing the sewage treatment facility known as the Dorade facility, to the point of beginning; Area three is defined as the parcel identified as district 200, section 82, block 1, lot 3.

§ 2. The town of Brookhaven, the county of Suffolk, and the Central Pine Barrens joint planning and policy commission shall compile a report providing an assessment of properties that would be suitable for solar projects including an inventory of specific parcels within the town of Brookhaven that minimize the need to utilize undisturbed open space.

Such report shall be submitted to the governor no later than January 1, 2020.

§ 3. The definitions of "central pine barrens" and "core preservation area" of section 57-0107 of the environmental conservation law shall be amended to include the property described as thence eastward along the northerly boundary of Moriches-Middle Island Road to a point due north of the easterly boundary of Cranford Boulevard; thence southward across Moriches-Middle Island Road and along the easterly boundary of Cranford Boulevard to the south-western corner of the property identified as District 200, Section 645, Block 3, Lot 29.1; thence southeastward along the southerly boundary of said property to its intersection with property identified as District 200, Section 712, Block 9, Lot 1; thence generally southward along the westerly boundary of said property to its intersection with the northerly side of the eastward extension of Grove Drive; thence southward crossing Grove Drive to its south side; thence westward along the southerly boundary of the Grove Drive road extension to the northwestern corner of the property identified as District 200, Section 749, Block 3, Lot 41.1; and comprised of parcels owned by the county of Suffolk and the town of Brookhaven; thence southward to the southwestern corner of property identified as District 200, Section 749, Block 3, Lot 43; thence eastward along the southerly boundary of said property to the west side of Lambert Avenue; thence crossing Lambert Avenue to its easterly side; thence southward along the easterly boundary of Lambert Avenue to the northerly boundary of the Sunrise Highway Service Road; thence northeastward along the northerly boundary of the Sunrise Highway Service Road to Barnes Road; thence northward along the westerly boundary of Barnes Road to the northeastern corner of property identified as District 200, Section 750, Block 3, Lot 40.2; thence westward along the northerly boundary of said property to the property identified as District 200, Section 713, Block 1, Lot 2; thence westward along the northerly boundary of property identified as District 200, Section 713, Block 1, Lot 1; thence northward along the westerly side of Weeks Avenue to the northeastern corner of property identified as District 200, Section 713, Block 3, Lot 1; thence westward along the northerly boundary of said property to Michigan Avenue; thence northward along the easterly boundary of Michigan Ave to Moriches-Middle Island Road, comprising of all lands owned by the Town of Brookhaven and Suffolk county therein and excluding all privately owned real property.

§ 4. This act shall take effect January 1, 2019; provided that if the provisions of this act establishing a new description and boundaries of the Central Pine Barrens Area or the core preservation area removes or excludes any of the lands of the Central Pine Barrens Area or the core preservation area as such lands are described and bounded in chapter 267 of the laws of 2015, and/or protections established and/or provided by such act, this act shall be deemed repealed and of no force and effect and chapter 267 of the laws of 2015 shall remain in full force and effect. The state legislature shall notify the legislative bill drafting commission of any such decrease and resulting repeal in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.

PART DD

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 2. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of state from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the activities of the department of state's utility intervention unit pursuant to subdivision 4 of section 94-a of the executive law, including, but not limited to participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the secretary of state shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 3. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the office of parks, recreation and historic preservation from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the office of parks, recreation and historic preservation's participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the office of parks, recreation and historic preservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2018 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be

subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2019, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the 2018 -- 2019 fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

§ 5. Notwithstanding any other law, rule or regulation to the contrary, expenses of the department of health public service education program incurred pursuant to appropriations from the cable television account of the state miscellaneous special revenue funds shall be deemed expenses of the department of public service. No later than August 15, 2019, the commissioner of the department of health shall submit an accounting of expenses in the 2018 -- 2019 fiscal year to the chair of the public service commission for the chair's review pursuant to the provisions of section 217 of the public service law.

§ 6. Any expense deemed to be expenses of the department of public service pursuant to sections one through four of this act shall not be recovered through assessments imposed upon telephone corporations as defined in subdivision 17 of section 2 of the public service law.

§ 7. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018 and shall be deemed repealed April 1, 2019.

PART EE

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $19,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2016. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2018 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2018. Upon receipt, the New York state energy

research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer $1 million to the state general fund for services and expenses of the department of environmental conservation, $150,000 to the state general fund for services and expenses of the department of agriculture and markets, and $825,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2018.

PART FF

Section 1. Paragraph (a) of subdivision 17 of section 1005 of the public authorities law, as amended by chapter 494 of the laws of 2011, is amended to read as follows:

(a) As deemed feasible and advisable by the trustees, to finance [~~and~~]__,__ design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, [~~and~~] any recipient of [~~the~~] economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, [~~power for jobs, and~~] __or__ recharge New York power [~~programs administered~~] __allocated__ by the authority__, and any party located within the state under contract with the authority to purchase power from the authority pursuant to this title or any other law__. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building

council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

§ 2. Subparagraph 2 of paragraph (b) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(2) "Energy-related projects, programs and services" means **energy management, distribution, or control projects and services, energy supply security, resiliency or reliability projects and services, energy procurement programs and services for public entities,** energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such **energy-related** projects, programs or services.

§ 3. Subparagraph 5 of paragraph (b) of subdivision 17 of section 1005 of the public authorities law, as added by chapter 477 of the laws of 2009 and such subdivision as renumbered by section 16 of part CC of chapter 60 of the laws of 2011, is amended to read as follows:

(5) "Public entity" means an agency, public authority, public benefit corporation, public corporation, municipal corporation, school district, board of cooperative educational services, public university, fire district, district corporation, or special improvement district governed by a separate board of commissioners**, including an entity formed by or under contract with one or more public entities for the purpose of facilitating the delivery, implementation or management of energy-related projects, programs and services**.

§ 4. This act shall take effect immediately.

PART GG

Section 1. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. (a) Notwithstanding any inconsistent provision of this title, as deemed feasible and advisable by the trustees, the authority is authorized to finance, plan, design, engineer, acquire, construct, operate or manage (collectively, "develop") throughout its area of service such renewable power and energy generating projects, and procure such renewable power, energy, or related attributes, which the authority deems necessary or desirable to assist the state in meeting any state clean energy standard or goals, and/or supply the needs of any public entity or authority customer within the state. The authority is further authorized to allocate and sell renewable power, energy, or related attributes that is produced by renewable power and energy generating projects it develops, or that it procures, to any public entity or authority customer. The authority shall be entitled to fully recover its costs, including its acquisition, finance, planning, contracting, capital, operating and maintenance costs, from the entities that purchase renewable power, energy and related attributes from the authority.

(b) The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(c) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(1) "Authority customer" means an entity located in the state that purchases or is under contract to purchase power or energy from the authority.

(2) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(3) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(4) "Renewable power and energy generating projects" means projects that generate power and energy by means of renewable energy resources, or that store and supply power and energy generated by means of renewable energy resources, and include the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable power and energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence and Niagara hydroelectric.

(5) "State" means the state of New York.

(d) Nothing in this subdivision is intended to limit, impair or affect the authority's legal authority under any other provision of this title.

§ 2. This act shall take effect immediately.

§ 2. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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