

# STATE OF NEW YORK

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S. 2008

A. 3008

## SENATE - ASSEMBLY

January 23, 2017

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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 chapter 62 of the laws of 2003 amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the disposition of revenues (Part A); to amend the vehicle and traffic law, in relation to divisible load permits (Part B); to amend the state finance law and the transportation law, in relation to enhancing the ability of the state to enforce state and federal law concerning the safety of public transportation systems under the oversight of the public transportation safety board (Part C); to amend the vehicle and traffic law in relation to compliance with new federal regulations and strengthening requirements for motor carriers (Part D); to amend the penal law, in relation to including the use of any highway, parkway, road, bridge or tunnel without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to liability of vehicle owners for toll collection violations and the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel (Part E); to amend the vehicle and traffic law and the state finance law, in relation to allocation of three million dollars of assessments from the city of New York to the general fund (Part F); to amend the vehicle and traffic law, the insurance law, the executive law, the tax law, and the state finance law, in relation to the regulation of transportation network company services; to establish the New York State TNC Accessibility Task Force; to establish the transportation network company driver's injury compensation fund; and to establish the local transit assistance fund (Part G); to amend the vehicle and traffic law, in relation to the waiver of non-driver identification card fees for crime victims (Part H); to amend the vehicle and traffic law, in relation to the reinstatement fee for non-residents (Part I); to amend the vehicle and traffic law, in relation to increasing fees

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

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for original and duplicate certificates of title (Part J); to amend the vehicle and traffic law, in relation to additional fees for certain identification cards (Part K); to amend the vehicle and traffic law, in relation to the definition of "drug", the scope of the written test, the suspension of a license for driving while impaired by drugs, the license sanctions for refusing to submit to a chemical test and prohibiting the use of mobile telephones and portable electronic devices when a vehicle is not in motion and by persons under 18 (Part L); 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 M); to amend chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to the effectiveness thereof (Part N); to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the minority and women-owned business enterprise program (Part O); to amend the infrastructure investment act, in relation to the definition of an authorized entity that may utilize design-build contracts, and in relation to the effectiveness thereof (Part P); 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 Q); 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 R); to amend the real property law, in relation to streamlining the licensing process for real estate professionals (Part S); to amend the environmental conservation law and the executive law, in relation to local waterfront revitalization (Part T); to amend the executive law, in relation to the chairperson of the state athletic commission (Part U); 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 V); to amend chapter 58 of the laws of 2012 amending the public authorities law relating to authorizing the dormitory authority to enter into certain design and construction management agreements, in relation to making permanent certain authority of the dormitory authority of the state of New York (Part W); to amend the insurance law, in relation to administrative supervision (Part X); to amend the banking law, the insurance law, and the financial services law in relation to the enforcement of the banking, insurance, and financial services laws against unlicensed participants (Part Y); to amend the banking law, in relation to the licensing and regulation of student loan servicers (Part Z); to amend the banking law, in relation to protecting vulnerable adults from financial exploitation (Part AA); to amend the financial services law, in

relation to the disqualification of bad actors from continued participation in the banking and insurance industries (Part BB); to amend the banking law, in relation to the regulation and authorization of certain lending circle programs (Part CC); to amend the state finance law, in relation to creating a paid family leave risk adjustment fund (Part DD); to amend the banking law, in relation to licensed lenders (Part EE); to amend the real property action and proceedings law and civil practice law and rules, in relation to reverse mortgages (Part FF); to amend the financial services law, in relation to assessments to defray operating expenses of the department (Subpart A); to amend the insurance law, in relation to the distribution of assets (Subpart B); and to amend the insurance law, in relation to insurers deemed to be in a hazardous financial condition (Subpart C)(Part GG); to amend the navigation law, in relation to establishing the New York environmental protection and spill remediation account (Part HH); to amend the environmental conservation law, the state finance law, the public authorities law, and the soil and water conservation districts law, in relation to the implementation of the "clean water infrastructure act of 2017"; and to repeal certain provisions of the environmental conservation law and the state finance law relating thereto (Part II); to amend the state finance law and the environmental conservation law, in relation to environmental protection fund deposits and transfers (Part JJ); to amend the environmental conservation law, in relation to the donation of excess food and recycling of food scraps (Part KK); to amend the public authorities law and the public officers law, in relation to the sharing of employees, services and resources by the power authority of the state of New York, canal corporation and department of transportation (Part LL); and to authorize the 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 MM)

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

1 Section 1. This act enacts into law major components of legislation  
2 which are necessary to implement the state fiscal plan for the 2017-2018  
3 state fiscal year. Each component is wholly contained within a Part  
4 identified as Parts A through MM. The effective date for each particular  
5 provision contained within such Part is set forth in the last section of  
6 such Part. Any provision in any section contained within a Part, including  
7 the effective date of the Part, which makes a reference to a section  
8 "of this act", when used in connection with that particular component,  
9 shall be deemed to mean and refer to the corresponding section of the  
10 Part in which it is found. Section three of this act sets forth the  
11 general effective date of this act.

12 PART A

13 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003  
14 amending the vehicle and traffic law and other laws relating to increas-

ing certain motor vehicle transaction fees, as amended by section 1 of part A of chapter 58 of the laws of 2015, is amended to read as follows:

§ 13. This act shall take effect immediately; provided however that sections one through seven of this act, the amendments to subdivision 2 of section 205 of the tax law made by section eight of this act, and section nine of this act shall expire and be deemed repealed on April 1, 2020; [~~provided further, however, that the amendments to subdivision 3 of section 205 of the tax law made by section eight of this act shall expire and be deemed repealed on March 31, 2018,~~] provided further, however, that the provisions of section eleven of this act shall take effect April 1, 2004 and shall expire and be deemed repealed on April 1, 2020.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.

#### PART B

Section 1. Paragraph (f) of subdivision 15 of section 385 of the vehicle and traffic law, as amended by section 4 of part C of chapter 59 of the laws of 2004, the third undesignated paragraph as amended by chapter 277 of the laws of 2014, is amended to read as follows:

(f) 1. The department of transportation, or other issuing authority, may issue an annual permit for a vehicle designed and constructed to carry loads that are not of one piece or item, which is registered in this state. Motor carriers having apportioned vehicles registered under the international registration plan must either have a currently valid permit at the time this provision becomes effective or shall have designated New York as its base state or one of the eligible jurisdictions of operation under the international registration plan in order to be eligible to receive a permit issued pursuant to [~~subparagraph~~] clause (i), (ii) or (ii-a) of subparagraph eight of this paragraph. No permit issued pursuant to this paragraph shall be valid for the operation or movement of vehicles on any state or other highway within any city not wholly included within one county unless such permit was issued by the city department of transportation of such city.

2. Effective January first, two thousand five, no vehicle or combination of vehicles issued a permit pursuant to this paragraph shall cross a bridge designated as an R-posted bridge by the commissioner of transportation or any other permit issuing authority absent a determination by such commissioner or permit issuing authority that the permit applicant has demonstrated special circumstances warranting the crossing of such bridge or bridges and a determination by such commissioner or permit issuing authority that such bridge or bridges may be crossed safely, provided, however, that in no event shall a vehicle or combination of vehicles issued a permit under this paragraph be permitted to cross a bridge designated as an R-posted bridge if such vehicle or combination of vehicles has a maximum gross weight exceeding one hundred two thousand pounds, and provided further, however, that nothing contained herein shall be deemed to authorize any vehicle or combination of vehicles to cross any such bridge within any city not wholly included within one county unless such vehicle or combination of vehicles has been issued a valid permit by the city department of transportation of such city pursuant to this subdivision.

3. No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this paragraph unless each axle of such vehicle or combination of vehicles, other than steerable or trackable

1 axles, is equipped with two tires on each side of the axle, any air  
2 pressure controls for lift axles are located outside the cab of the  
3 vehicle and are beyond the reach of occupants of the cab while the vehi-  
4 cle is in motion, the weight on any grouping of two or more axles is  
5 distributed such that no axle in the grouping carries less than eighty  
6 percent of any other axle in the grouping and any liftable axle is  
7 steerable or trackable; and, further provided, after December thirty-  
8 first, two thousand nineteen, no permit shall be issued pursuant to this  
9 paragraph to a vehicle of any model year that does not meet the require-  
10 ments of this provision, except that such permits may be issued prior to  
11 January first, two thousand twenty to a vehicle that does not meet the  
12 requirement concerning axle grouping weight distribution, but meets all  
13 other requirements of this section.

14 4. A divisible load permit may only be transferred to a replacement  
15 vehicle by the same registrant or transferred with the permitted vehicle  
16 as part of the sale or transfer of the permit holder's business; or, if  
17 the divisible load permit is issued pursuant to ~~[subparagraph]~~ clause  
18 (iv), (v) or (vi) of subparagraph eight of this paragraph for use within  
19 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange  
20 and Dutchess and has been effective for the five years preceding a  
21 transfer of such permit, the permit may be transferred with the permit-  
22 ted vehicle in the sale of the permitted vehicle to the holder of a  
23 permit issued pursuant to ~~[subparagraph]~~ clause (iv), (v) or (vi) of  
24 subparagraph eight of this paragraph for use within the counties of  
25 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess.

26 5. If a permit holder operates a vehicle or combination of vehicles in  
27 violation of any posted weight restriction, the commissioner of trans-  
28 portation may impose a civil penalty as provided by section one hundred  
29 forty-five of the transportation law and/or cancel, suspend or revoke  
30 the permit issued to such vehicle or combination of vehicles and such  
31 permit shall be deemed void as of the next day and shall not be reissued  
32 for a period of up to twelve calendar months.

33 6. Until June thirtieth, nineteen hundred ninety-four, no more than  
34 sixteen thousand power units shall be issued annual permits by the  
35 department for any twelve-month period in accordance with this para-  
36 graph. After June thirtieth, nineteen hundred ninety-four, no more than  
37 sixteen thousand five hundred power units shall be issued annual permits  
38 by the department for any twelve-month period. After December thirty-  
39 first, nineteen hundred ninety-five, no more than seventeen thousand  
40 power units shall be issued annual permits by the department for any  
41 twelve-month period. After December thirty-first, two thousand three, no  
42 more than twenty-one thousand power units shall be issued annual permits  
43 by the department for any twelve-month period. After December thirty-  
44 first, two thousand five, no more than twenty-two thousand power units  
45 shall be issued annual permits by the department for any twelve-month  
46 period. After December thirty-first, two thousand six, no more than  
47 twenty-three thousand power units shall be issued annual permits by the  
48 department for any twelve-month period. After December thirty-first, two  
49 thousand seven, no more than twenty-four thousand power units shall be  
50 issued annual permits by the department for any twelve-month period.  
51 After December thirty-first, two thousand eight, no more than twenty-  
52 five thousand power units shall be issued annual permits by the depart-  
53 ment for any twelve-month period. After December thirty-first, two thou-  
54 sand sixteen, no more than twenty-seven thousand power units shall be  
55 issued annual permits by the department for any twelve-month period.  
56 After December thirty-first, two thousand eighteen, no more than twen-

1 ty-nine thousand power units shall be issued annual permits by the  
2 department for any twelve-month period. After December thirty-first, two  
3 thousand twenty, no more than thirty thousand power units shall be  
4 issued annual permits by the department for any twelve-month period.  
5 After December thirty-first, two thousand twenty-two, no more than thir-  
6 ty-one thousand power units shall be issued annual permits by the  
7 department for any twelve-month period. After December thirty-first, two  
8 thousand twenty-three, no more than thirty-two thousand power units  
9 shall be issued annual permits by the department for any twelve-month  
10 period. After December thirty-first, two thousand twenty-four, no more  
11 than thirty-three thousand power units shall be issued annual permits by  
12 the department for any twelve-month period. After December thirty-  
13 first, two thousand twenty-five, no more than thirty-five thousand power  
14 units shall be issued annual permits by the department for any twelve-  
15 month period.

16 Whenever permit application requests exceed permit availability, the  
17 department shall renew annual permits that have been expired for less  
18 than four years which meet program requirements, and then shall issue  
19 permit applicants having less than three divisible load permits such  
20 additional permits as the applicant may request, providing that the  
21 total of existing and new permits does not exceed three. Remaining  
22 permits shall be allocated by lottery in accordance with procedures  
23 established by the commissioner in rules and regulations. After December  
24 thirty-first, two thousand sixteen, the department may permanently  
25 increase the maximum number of power units issued an annual permit by no  
26 more than two thousand additional permits above the previous year's  
27 total in accordance with procedures established by the commissioner in  
28 rules and regulations.

29 7. The department of transportation may issue a seasonal agricultural  
30 permit in accordance with [~~subparagraphs~~] clauses (i), (ii) and (iii) of  
31 subparagraph eight of this paragraph that will be valid for four consec-  
32 utive months with a fee equal to one-half the annual permit fees estab-  
33 lished under this subdivision.

34 8. For a vehicle issued a permit in accordance with [~~subparagraphs~~]  
35 clauses (iii), (iv), (v) and (vi) of this [~~paragraph~~] subparagraph, such  
36 a vehicle must have been registered in this state prior to January  
37 first, nineteen hundred eighty-six or be a vehicle or combination of  
38 vehicles which replace such type of vehicle which was registered in this  
39 state prior to such date provided that the manufacturer's recommended  
40 maximum gross weight of the replacement vehicle or combination of vehi-  
41 cles does not exceed the weight for which a permit may be issued and the  
42 maximum load to be carried on the replacement vehicle or combination of  
43 vehicles does not exceed the maximum load which could have been carried  
44 on the vehicle being replaced or the registered weight of such vehicle,  
45 whichever is lower, in accordance with the following [~~subparagraphs~~]  
46 clauses:

47 (i) A permit may be issued for a vehicle having at least three axles  
48 and a wheelbase not less than sixteen feet and for a vehicle with a  
49 trailer not exceeding forty-eight feet. The maximum gross weight of such  
50 a vehicle shall not exceed forty-two thousand five hundred pounds plus  
51 one thousand two hundred fifty pounds for each foot and major fraction  
52 of a foot of the distance from the center of the foremost axle to the  
53 center of the rearmost axle, or one hundred two thousand pounds, which-  
54 ever is more restrictive provided, however, that any four axle group  
55 weight shall not exceed sixty-two thousand pounds, any tridem axle group  
56 weight shall not exceed fifty-seven thousand pounds, any tandem axle

weight does not exceed forty-seven thousand pounds and any single axle weight shall not exceed twenty-five thousand pounds.

Any additional special authorizations contained in a currently valid annual permit shall cease upon the expiration of such current annual permit.

(ii) A permit may be issued subject to bridge restrictions for a vehicle or a combination of vehicles having at least six axles and a wheelbase of at least thirty-six and one-half feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed one hundred seven thousand pounds and any tridem axle group weight shall not exceed fifty-eight thousand pounds and any tandem axle group weight shall not exceed forty-eight thousand pounds.

(ii-a) A permit may be issued subject to bridge restrictions for a combination of vehicles having at least seven axles and a wheelbase of at least forty-three feet. The maximum gross weight of such combination of vehicles shall not exceed one hundred seventeen thousand pounds, any four axle group weight shall not exceed sixty-three thousand pounds, any tridem axle group weight shall not exceed fifty-eight thousand pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, and any single axle weight shall not exceed twenty-five thousand pounds.

Each axle of such combination of vehicles, other than steerable or trackable axles, shall be equipped with two tires on each side of the axle, any air pressure controls for lift axles shall be located outside the cab of the combination of vehicles and shall be beyond the reach of occupants of the cab while the combination of vehicles is in motion, the weight on any grouping of two or more axles shall be distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping, and any liftable axle of such combination of vehicles shall be steerable or trackable.

(iii) A permit may be issued for a vehicle having two axles and a wheelbase not less than ten feet, with the maximum gross weight not in excess of one hundred twenty-five percent of the total weight limitation as set forth in subdivision ten of this section. Furthermore, until December thirty-first, nineteen hundred ninety-four, any single rear axle weight shall not exceed twenty-eight thousand pounds. After December thirty-first, nineteen hundred ninety-four, any axle weight shall not exceed twenty-seven thousand pounds.

(iv) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle having at least three axles and a wheelbase not exceeding forty-four feet nor less than seventeen feet or for a vehicle with a trailer not exceeding forty feet.

Until December thirty-first, nineteen hundred ninety-four, a permit may only be issued for such a vehicle having a maximum gross weight not exceeding eighty-two thousand pounds and any tandem axle group weight shall not exceed sixty-two thousand pounds.

After January first, nineteen hundred ninety-five, the operation of such a vehicle shall be further limited and a permit may only be issued for such a vehicle having a maximum gross weight not exceeding seventy-nine thousand pounds and any tandem axle group weight shall not exceed fifty-nine thousand pounds, and any tridem shall not exceed sixty-four thousand pounds.

A permit may be issued only until December thirty-first, nineteen hundred ninety-four for a vehicle having at least three axles and a wheelbase between fifteen and seventeen feet. The maximum gross weight



1 of such a vehicle shall not exceed seventy-three thousand two hundred  
2 eighty pounds and any tandem axle group weight shall not exceed fifty-  
3 four thousand pounds.

4 No vehicle having a model year of two thousand six or newer shall be  
5 issued a permit pursuant to this subparagraph for use within the coun-  
6 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and  
7 Dutchess unless it is equipped with at least four axles, and further  
8 provided, after December thirty-first, two thousand fourteen, no permit  
9 shall be issued pursuant to this [subparagraph] clause for use within  
10 the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange  
11 and Dutchess to a vehicle of any model year unless the vehicle is  
12 equipped with at least four axles.

13 (v) Within a city not wholly included within one county and the coun-  
14 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange or Dutch-  
15 ess, a permit may be issued only until December thirty-first, nineteen  
16 hundred ninety-nine for a vehicle or combination of vehicles that has  
17 been permitted within the past four years having five axles and a wheel-  
18 base of at least thirty-six and one-half feet. The maximum gross weight  
19 of such a vehicle or combination of vehicles shall not exceed one  
20 hundred five thousand pounds and any tandem axle group weight shall not  
21 exceed fifty-one thousand pounds.

22 Within a city not wholly included within one county and the counties  
23 of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess,  
24 a permit may be issued for a vehicle or combination of vehicles having  
25 at least five axles and a wheelbase of at least thirty feet. The maximum  
26 gross weight of such vehicle or combination of vehicles shall not exceed  
27 ninety-three thousand pounds and any tridem axle group weight shall not  
28 exceed fifty-seven thousand pounds and any tandem axle group weight  
29 shall not exceed forty-five thousand pounds.

30 (vi) Within a city not wholly included within one county and the coun-  
31 ties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and  
32 Dutchess, a permit may be issued for a vehicle or combination of vehi-  
33 cles having at least five axles or more and a wheelbase of at least  
34 thirty-six and one-half feet, provided such permit contains routing  
35 restrictions.

36 Until December thirty-first, nineteen hundred ninety-four, the maximum  
37 gross weight of a vehicle or combination of vehicles permitted under  
38 this [subparagraph] clause shall not exceed one hundred twenty thousand  
39 pounds and any tandem or tridem axle group weight shall not exceed  
40 sixty-nine thousand pounds, provided, however, that any replacement  
41 vehicle or combination of vehicles permitted after the effective date of  
42 this [subparagraph] clause shall have at least six axles, any tandem  
43 axle group shall not exceed fifty thousand pounds and any tridem axle  
44 group shall not exceed sixty-nine thousand pounds.

45 After December thirty-first, nineteen hundred ninety-four, the tridem  
46 axle group weight of any vehicle or combination of vehicles issued a  
47 permit under this [subparagraph] clause shall not exceed sixty-seven  
48 thousand pounds, any tandem axle group weight shall not exceed fifty  
49 thousand pounds and any single axle weight shall not exceed twenty-five  
50 thousand seven hundred fifty pounds.

51 After December thirty-first, nineteen hundred ninety-nine, all vehi-  
52 cles issued a permit under this [subparagraph] clause must have at least  
53 six axles.

54 After December thirty-first, two thousand fourteen, all combinations  
55 of vehicles issued a permit under this [subparagraph] clause for use  
56 within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam,



1 Orange and Dutchess must have at least seven axles and a wheelbase of at  
2 least forty-three feet.

3 After December thirty-first, two thousand six, no permits shall be  
4 issued under this [subparagraph] clause for use within the counties of  
5 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for  
6 a vehicle or combination of vehicles having less than seven axles or  
7 having a wheelbase of less than forty-three feet, provided, however,  
8 that permits may be issued for use within the counties of Westchester,  
9 Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or  
10 combinations of vehicles where the permit applicant demonstrates that  
11 the applicant acquired the vehicle or combination of vehicles prior to  
12 December thirty-first, two thousand six, and that if the vehicle or  
13 combination of vehicles was acquired by the applicant after the effec-  
14 tive date of this provision, such vehicle or combination of vehicles is  
15 less than fifteen years old. In instances where the application is for a  
16 combination of vehicles, the applicant shall demonstrate that the power  
17 unit of such combination satisfies the conditions of this [subparagraph]  
18 clause. In no event shall a permit be issued under this [subparagraph]  
19 clause for use within the counties of Westchester, Rockland, Nassau,  
20 Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of  
21 vehicles having less than seven axles or having a wheelbase of less than  
22 forty-three feet after December thirty-first, two thousand fourteen.

23 Except as otherwise provided by this subparagraph for the period  
24 ending December thirty-first, two thousand fourteen, after December  
25 thirty-first, two thousand three, any combination of vehicles issued a  
26 permit under this [subparagraph] clause for use within the counties of  
27 Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess  
28 shall not exceed one hundred twenty thousand pounds, shall have at least  
29 seven axles, shall have a wheelbase of at least forty-three feet, and  
30 single axle weight shall not exceed twenty-five thousand seven hundred  
31 fifty pounds, any tandem axle group weight shall not exceed forty-eight  
32 thousand pounds, any tridem axle group weight shall not exceed sixty-  
33 three thousand pounds and any four axle group shall not exceed sixty-  
34 five thousand pounds.

35 From the date of enactment of this paragraph, permit applications  
36 under [subparagraphs] clauses (i), (ii), (ii-a), (iii), (iv), (v) and  
37 (vi) of this [paragraph] subparagraph for vehicles registered in this  
38 state may be honored by the commissioner of transportation or other  
39 appropriate authority. The commissioner of transportation and other  
40 appropriate authorities may confer and develop a system through rules  
41 and regulations to assure compliance herewith.

42 § 2. This act shall take effect immediately.

43 PART C

44 Section 1. Paragraph (b) of subdivision 5 of section 88-a of the state  
45 finance law, as added by chapter 481 of the laws of 1981, is amended to  
46 read as follows:

47 (b) Moneys in the public transportation systems operating assistance  
48 account shall be paid on a quarterly basis beginning October first,  
49 nineteen hundred eighty-one. However, if there is a demonstrated cash  
50 shortfall in any eligible system, payments to such system may be accel-  
51 erated. Such payments shall be made in accordance with a schedule as  
52 specified by appropriation for the payment of operating costs of public  
53 mass transportation systems outside the metropolitan commuter transpor-  
54 tation district as defined by section twelve hundred sixty-two of the

public authorities law, eligible to receive operating assistance pursuant to section eighteen-b of the transportation law. Provided, however that no payment shall be made to any public transportation system that is operating in violation of an order by the public transportation safety board pursuant to subdivision nine of section two hundred seventeen of the transportation law until such time that said public transportation system has fully complied with said order or unless the order is otherwise lifted.

§ 2. Paragraph (b) of subdivision 7 of section 88-a of the state finance law, as amended by chapter 56 of the laws of 1993, is amended to read as follows:

(b) Moneys in the metropolitan mass transportation operating assistance account shall be paid on a quarterly basis beginning October first, nineteen hundred [~~eight-one~~ eighty-one]. However, if there is a demonstrated cash shortfall in any eligible system, payments to such system may be accelerated. Such moneys shall be paid in accordance with schedules as specified by appropriations for payment of operating costs of public transportation systems in the metropolitan transportation commuter district in order to meet the operating expenses of such systems, provided, however, with respect to the metropolitan transportation authority, its affiliates and subsidiaries, and notwithstanding any general or special law to the contrary, other than such a law which makes specific reference to this section, and subject to the provisions of section twelve hundred seventy-c of the public authorities law, so long as the metropolitan transportation authority dedicated tax fund established by section twelve hundred seventy-c of the public authorities law shall exist, any such appropriation to the metropolitan transportation authority, its affiliates or its subsidiaries shall be deemed to be an appropriation to the metropolitan transportation authority and the total amount paid pursuant to such appropriation or appropriations shall be deposited to such metropolitan transportation authority dedicated tax fund and distributed in accordance with the provisions of section twelve hundred seventy-c of the public authorities law. Nothing contained in this subdivision shall be deemed to restrict the right of the state to amend, repeal, modify or otherwise alter statutes imposing or relating to the taxes producing revenues for deposit in the metropolitan mass transportation operating assistance account or the appropriations relating thereto. The metropolitan transportation authority shall not include within any resolution, contract or agreement with holders of the bonds or notes issued under section twelve hundred sixty-nine of the public authorities law any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter such taxes or appropriations. Provided, however that no payment shall be made to any public transportation system that is operating in violation of an order by the public transportation safety board pursuant to subdivision nine of section two hundred seventeen of the transportation law until such time that said public transportation system has fully complied with said order or unless the order is otherwise lifted.

§ 3. The opening paragraph of subdivision 4 of section 88-b of the state finance law, as added by chapter 13 of the laws of 1987, is amended to read as follows:

Moneys of the fund shall be made available for financing any of the following types of capital projects within the counties comprising the metropolitan commuter transportation district, except those counties comprising the city of New York, but only to the extent that such

1 projects are on an adopted transportation plan and approved by a design-  
2 nated transportation coordinating committee, if one exists, or by the  
3 metropolitan planning organization as created pursuant to section  
4 fifteen-a of the transportation law if no designated transportation  
5 coordinating committee exists: capacity and infrastructure improvements  
6 to state, county, town, city, village roads, highways, parkways and  
7 bridges; or state, county, town, city or village mass transportation  
8 projects; provided, however, that in Nassau and Suffolk counties such  
9 moneys shall be available only for capacity improvements to state roads,  
10 highways, parkways and bridges. The amount of state funds historically  
11 appropriated statewide, other than bond funds, for transportation capital  
12 purposes from other sources shall not be reduced because of the  
13 availability of such moneys made available pursuant to this chapter, nor  
14 shall such moneys be used to match federal aid. Prior to the allocation  
15 of state advance funds appropriated pursuant to this section, the municipality  
16 responsible for the project shall certify to the commissioner  
17 of transportation that the amount of funds appropriated for transportation  
18 capital purposes by that municipality shall not be reduced because  
19 of the availability of such state advance funds, and that such moneys  
20 shall not be used to match federal aid. Provided, however that no  
21 payment shall be made to any public transportation system that is operating  
22 in violation of an order by the public transportation safety board  
23 pursuant to subdivision nine of section two hundred seventeen of the  
24 transportation law until such time that said public transportation  
25 system has fully complied with said order or unless the order is otherwise  
26 lifted.

27 § 4. Paragraph a of subdivision 2 of section 18-b of the transportation  
28 law, as added by chapter 56 of the laws of 1975, is amended to read  
29 as follows:

30 a. The commissioner shall pay to each public transportation system  
31 that makes an application therefor, in quarterly installments, a mass  
32 transportation operating assistance service payment. For the purposes of  
33 this section, the quarters shall be April through June, July through  
34 September, October through December and January through March.  
35 Provided, however that no payment shall be made to any public transportation  
36 system that is operating in violation of an order by the public  
37 transportation safety board pursuant to subdivision nine of section two  
38 hundred seventeen of this chapter until such time that said public  
39 transportation system has fully complied with said order or unless the  
40 order is otherwise lifted.

41 § 5. Section 217 of the transportation law is amended by adding seven  
42 new subdivisions 9, 10, 11, 12, 13, 14 and 15 to read as follows:

43 9. To comply with the requirements of the national public transportation  
44 safety plan, as provided by section 5329 of title 49 of the United  
45 States code and to provide the state safety oversight program required  
46 thereby.

47 10. To review, approve, oversee and enforce the implementation by the  
48 rail fixed guideway public transportation agency of the public transportation  
49 agency safety plan that is approved by the board.

50 11. To investigate and enforce the safety of rail fixed guideway  
51 public transportation systems with the public transportation agency  
52 safety plan approved by the board.

53 12. To perform audits, at least once triennially, for the compliance  
54 of the rail fixed guideway public transportation systems with the federal  
55 transit administration.

1 13. To provide, at least once annually, a status report on the safety  
2 of rail fixed guideway public transportation systems that the board  
3 oversees.

4 14. To review, approve, oversee and enforce the implementation of  
5 public transportation system safety plans.

6 15. To issue such advisories, directives or orders that may be deemed  
7 necessary to assure safety in the operation of public transportation  
8 systems.

9 § 6. This act shall take effect immediately.

10 PART D

11 Section 1. Paragraph (g) of subdivision 3 of section 385 of the vehi-  
12 cle and traffic law, as added by chapter 303 of the laws of 2014, is  
13 amended to read as follows:

14 (g) The length of a tow truck or car carrier, inclusive of load and  
15 bumpers, shall be not more than forty feet, except that a car carrier  
16 may have an overhang that extends beyond the rear bumper of such car  
17 carrier by not more than [~~three~~] four feet and except, further, that a  
18 wheel lift that is less than fifteen feet in length shall not be  
19 included as part of the length of a tow truck or car carrier when such  
20 wheel lift is in use by such tow truck or car carrier to tow another  
21 motor vehicle.

22 § 2. Subparagraphs 5 and 6 of paragraph (b) of subdivision 4 of  
23 section 385 of the vehicle and traffic law, subparagraph 5 as amended by  
24 chapter 669 of the laws of 2005, and subparagraph 6 as amended by chap-  
25 ter 26 of the laws of 2002, are amended and a new subparagraph 7 is  
26 added to read as follows:

27 5. A vehicle or combination of vehicles which is disabled and unable  
28 to proceed under its own power and is being towed for a distance not in  
29 excess of ten miles for the purpose of repairs or removal from the high-  
30 way, except that the distance to the nearest exit of a controlled-access  
31 highway shall not be considered in determining such ten mile distance;  
32 [~~and~~]

33 6. Stinger-steered automobile transporters or stinger-steered boat  
34 transporters, while operating on qualifying and access highways. Such  
35 vehicles shall not, however, exceed [~~seventy-five~~] eighty feet exclusive  
36 of an overhang of not more than [~~three~~] four feet on the front and  
37 [~~four~~] six feet on the rear of the vehicle[~~;~~]; and

38 7. A combination of vehicles operating on any qualifying or access  
39 highways consisting of a power unit and two trailers or semitrailers  
40 with a total weight that shall not exceed twenty-six thousand pounds  
41 when the overall length is greater than sixty-five feet but shall not  
42 exceed eighty-two feet; and in which the trailers or semitrailers carry  
43 no property and constitute inventory property of a manufacturer,  
44 distributor, or dealer of such trailers or semitrailers.

45 § 3. Paragraph (c) of subdivision 4 of section 385 of the vehicle and  
46 traffic law, as amended by chapter 26 of the laws of 2002, is amended to  
47 read as follows:

48 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-  
49 sion, an overhang of not more than three feet on the front and four feet  
50 on the rear of an automobile transporter or an overhang of not more than  
51 four feet on the front and six feet on the rear of a stinger-steered  
52 automobile transporter or a boat transporter or stinger-steered boat  
53 transporter shall be permitted.

§ 4. Subdivision 10 of section 385 of the vehicle and traffic law, as amended by chapter 1008 of the laws of 1983, is amended to read as follows:

10. A single vehicle or a combination of vehicles having three axles or more and equipped with pneumatic tires, when loaded, may have a total weight on all axles not to exceed thirty-four thousand pounds, plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle. Axles to be counted as provided in subdivision five of this section. In no case, however, shall the total weight exceed eighty thousand pounds except for a vehicle if operated by an engine fueled primarily by natural gas which may have a maximum gross weight of eighty-two thousand pounds. For any vehicle or combination of vehicles having a total gross weight less than seventy-one thousand pounds, the higher of the following shall apply:

(a) the total weight on all axles shall not exceed thirty-four thousand pounds plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or

(b) the overall gross weight on a group of two or more consecutive axles shall not exceed the weight produced by application of the following formula:

$$W = 500 ((L \times N) / (N - 1) + (12 \times N) + 36)$$

where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet from the center of the foremost axle to the center of the rearmost axle of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.

For any vehicle or combination of vehicles having a total gross weight of seventy-one thousand pounds or greater, paragraph (b) shall apply to determine maximum gross weight which is permitted hereunder.

§ 5. Section 385 of the vehicle and traffic law is amended by adding a new subdivision 24 to read as follows:

24. The provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any tow truck that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

§ 6. Subparagraph (iii) of paragraph (b) of subdivision 2 of section 510 of the vehicle and traffic law, as amended by chapter 349 of the laws 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 when the motor carrier has been issued an out of service order 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 subparagraph shall remain in effect until such time as the commissioner is notified by the United States department of transportation or the New York state department of transportation that the out of service order resulting in the suspension is no longer in effect.

§ 7. This act shall take effect immediately.

## PART E

Section 1. Subdivision 3 of section 165.15 of the penal law is amended to read as follows:

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service or to use any highway, parkway, road, bridge or tunnel without payment of the lawful charge or toll therefor, or to avoid payment of the lawful charge or toll for such transportation service which has been rendered to him or for such use of any highway, parkway, road, bridge or tunnel, he obtains or attempts to obtain such service or use or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

§ 2. The vehicle and traffic law is amended by adding a new section 518 to read as follows:

§ 518. Reciprocal agreements concerning suspension or revocation of registration of a motor vehicle for violations of toll collection regulations. a. The commissioner may execute a reciprocal compact or agreement regarding toll collection violations with the motor vehicle administrator or other authorized official of another state not inconsistent with the provisions of this chapter. Such compact or agreement shall provide that if a registration of a motor vehicle would be suspended or revoked pursuant to paragraph d of subdivision three of section five hundred ten of this chapter, or pursuant to a comparable law or regulation of another state, because an owner of a motor vehicle failed to pay tolls and violation fees, or have them dismissed or transferred, then the state issuing the registration shall likewise suspend or revoke the registration or bar renewal of such registration, until such registrant or applicant has paid such tolls and fees or complied with the rules and regulations.

b. Such compact or agreement shall also provide such terms and procedures as are necessary and proper to facilitate its administration. Any such compact or agreement shall specify the violations subject to the compact or agreement, and shall include a determination of comparable violations in each state if any such violations are of a substantially similar nature but are not denominated or described in precisely the same words in each party state.

c. The word "state" when used in this section shall mean any state, territory, a possession of the United States, the District of Columbia or any province of Canada.

§ 3. Subdivision 1 of section 402 of the vehicle and traffic law is amended by adding a new paragraph (c) to read as follows:

(c) It shall be unlawful for any person to operate, drive or park a motor vehicle on a toll highway, bridge and/or tunnel facility, under the jurisdiction of the tolling authority, if such number plate is not easily readable, nor shall any number plate be covered by glass or any plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures



1 such number plates or that distorts a recorded or photographic image of  
2 such number plates, and the view of such number plates shall not be  
3 obstructed by any part of the vehicle or by anything carried thereon,  
4 except for a receiver-transmitter issued by a publicly owned tolling  
5 facility in connection with electronic toll collection when such receiv-  
6 er-transmitter is affixed to the exterior of a vehicle in accordance  
7 with mounting instructions provided by the tolling facility. For  
8 purposes of this paragraph, "tolling authority" shall mean every public  
9 authority which operates a toll highway, bridge and/or tunnel facility  
10 as well as the port authority of New York and New Jersey, a bi-state  
11 agency created by compact set forth in chapter one hundred fifty-four of  
12 the laws of nineteen hundred twenty-one, as amended.

13 § 4. Subdivision 8 of section 402 of the vehicle and traffic law, as  
14 amended by chapter 61 of the laws of 1989 and renumbered by chapter 648  
15 of the laws of 2006, is amended to read as follows:

16 8. The violation of this section shall be punishable by a fine of not  
17 less than twenty-five nor more than two hundred dollars except for  
18 violations of paragraph (c) of subdivision one of this section, which  
19 shall be punishable by a fine of not less than one hundred nor more than  
20 five hundred dollars.

21 § 5. This act shall take effect immediately.

22 PART F

23 Section 1. Subdivision 5 of section 227 of the vehicle and traffic  
24 law, as amended by section 3 of part CC of chapter 58 of the laws of  
25 2015, is amended to read as follows:

26 5. All penalties and forfeited security collected pursuant to the  
27 provisions of this article shall be paid to the department of audit and  
28 control to the credit of the justice court fund and shall be subject to  
29 the applicable provisions of section eighteen hundred three of this  
30 chapter. After such audit as shall reasonably be required by the comp-  
31 troller, such penalties and forfeited security shall be paid quarterly  
32 or, in the discretion of the comptroller, monthly, to the appropriate  
33 jurisdiction in which the violation occurred in accordance with the  
34 provisions of section ninety-nine-a of the state finance law, except  
35 that the sum of four dollars for each violation occurring in such juris-  
36 diction for which a complaint has been filed with the administrative  
37 tribunal established pursuant to this article shall be retained by the  
38 state. Notwithstanding any law to the contrary an additional annual sum  
39 of three million dollars collected from fines and assessed to the city  
40 of New York, shall be deposited into the general fund in accordance with  
41 the provisions of section ninety-nine-a of the state finance law. The  
42 amount distributed during the first three quarters to the city of  
43 Rochester in any given fiscal year shall not exceed seventy percent of  
44 the amount which will be otherwise payable. Provided, however, that if  
45 the full costs of administering this article shall exceed the amounts  
46 received and retained by the state for any period specified by the  
47 commissioner, then such additional sums as shall be required to offset  
48 such costs shall be retained by the state out of the penalties and  
49 forfeited security collected pursuant to this article.

50 § 2. Paragraph c of subdivision 1 of section 1803 of the vehicle and  
51 traffic law, as amended by chapter 385 of the laws of 1999, is amended  
52 to read as follows:

53 c. for compliance with or violations of subdivision nineteen of  
54 section three hundred eighty-five of this chapter, notwithstanding any

1 inconsistent provision of law, except as provided in section ninety of  
2 the state finance law, the fees and fines collected by the state pursu-  
3 ant to sections two hundred twenty-seven, three hundred eighty-five and  
4 eighteen hundred three of this chapter and section ninety-nine-a of the  
5 state finance law, shall be made available to the state comptroller for  
6 deposit in the general fund except that fines collected within a city  
7 not wholly included within one county shall be paid to such city in  
8 accordance with the procedures set forth in subdivision four of section  
9 two hundred twenty-seven of this chapter for deposit into the general  
10 fund of such city, and except that an annual amount of three million  
11 dollars of fines collected within the city of New York pursuant to arti-  
12 cle two-A of this chapter be deposited by the comptroller to the general  
13 fund.

14 § 3. Subdivision 3 of section 99-a of the state finance law, as  
15 amended by section 10 of part CC of chapter 58 of the laws of 2015, is  
16 amended to read as follows:

17 3. The comptroller is hereby authorized to implement alternative  
18 procedures, including guidelines in conjunction therewith, relating to  
19 the remittance of fines, penalties, forfeitures and other moneys by town  
20 and village justice courts, and by the Nassau and Suffolk counties traf-  
21 fic and parking violations agencies, and by the city of Buffalo traffic  
22 violations agency, and by the city of New York pursuant to article two-A  
23 of the vehicle and traffic law, to the justice court fund and for the  
24 distribution of such moneys by the justice court fund. Notwithstanding  
25 any law to the contrary, the alternative procedures utilized may  
26 include:

27 a. electronic funds transfer;

28 b. remittance of funds by the justice court to the chief fiscal office  
29 of the town or village, or, in the case of the Nassau and Suffolk coun-  
30 ties traffic and parking violations agencies, to the county treasurer,  
31 or, in the case of the Buffalo traffic violations agency, to the city of  
32 Buffalo comptroller, for distribution in accordance with instructions by  
33 the comptroller or, in the case of the city of New York, pursuant to  
34 article two-A of the vehicle and traffic law to the city comptroller;  
35 and/or

36 c. monthly, rather than quarterly, distribution of funds.

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

45 § 4. This act shall take effect immediately.

#### 46 PART G

47 Section 1. Legislative intent. The purpose of this act is to expand  
48 access to important and enhanced transportation options for residents  
49 and visitors throughout the State, while ensuring the safety, reliabil-  
50 ity, and cost-effectiveness of those services within the State of New  
51 York.

52 § 2. The vehicle and traffic law is amended by adding a new article  
53 44-B to read as follows:

ARTICLE 44-B

TRANSPORTATION NETWORK COMPANY SERVICES

Section 1691. Definitions.

1692. General provisions.

1693. Financial responsibility of transportation network companies.

1694. Disclosures.

1695. Insurance provisions.

1696. Driver and vehicle requirements.

1697. Maintenance of records.

1698. Audit procedures; confidentiality of records.

1699. Criminal history background check of transportation network company drivers.

1700. Controlling authority.

§ 1691. Definitions. As used in this article: 1. "Transportation network company vehicle" or "TNC vehicle" means a vehicle that is:

(a) used by a transportation network company driver to provide a TNC prearranged trip originating in the state of New York;

(b) owned, leased or otherwise authorized for use by the transportation network company driver and shall not include:

(i) a taxicab, as defined in section one hundred forty-eight-a of this chapter and section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(ii) a livery vehicle, as defined in section one hundred twenty-one-e of this chapter, or as otherwise defined in local law;

(iii) a black car, limousine, or luxury limousine, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(iv) a for-hire vehicle, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law;

(v) a bus, as defined in section one hundred four of this chapter;

(vi) any motor vehicle weighing more than six thousand five hundred pounds unloaded;

(vii) any motor vehicle having a seating capacity of more than seven passengers; and

(viii) any motor vehicle subject to section three hundred seventy of this chapter.

2. "Digital network" means any system or service offered or utilized by a transportation network company that enables TNC prearranged trips with transportation network company drivers.

3. "Transportation network company" or "TNC" means a person, corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this article and is operating in New York state exclusively using a digital network to connect transportation network company passengers to transportation network company drivers who provide TNC prearranged trips.

4. "Transportation network company driver" or "TNC driver" means an individual who:

(a) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and

(b) Uses a TNC vehicle to offer or provide a TNC prearranged trip to transportation network company passengers upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

5. "Transportation network company passenger" or "passenger" means a person or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides TNC prearranged trips to the passenger in the TNC vehicle between points chosen by the passenger.

6. "TNC prearranged trip" means the provision of transportation by a transportation network company driver to a passenger provided through the use of a TNC's digital network:

(a) beginning when a transportation network company driver accepts a passenger's request for a trip through a digital network controlled by a transportation network company;

(b) continuing while the transportation network company driver transports the requesting passenger in a TNC vehicle; and

(c) ending when the last requesting passenger departs from the TNC vehicle.

(d) The term "TNC prearranged trip" does not include transportation provided through any of the following:

(i) shared expense carpool or vanpool arrangements, including those as defined in section one hundred fifty-eight-b of the vehicle and traffic law;

(ii) use of a taxicab, livery, luxury limousine, or other for-hire vehicle, as defined in the vehicle and traffic law, section 19-502 of the New York city administrative code, or as otherwise defined in local law; and

(iii) a regional transportation provider.

7. "Group policy" means an insurance policy issued pursuant to section three thousand four hundred fifty-five of the insurance law.

§ 1692. General provisions. 1. A TNC or a TNC driver is not a common carrier, as defined in subdivision six of section two of the transportation law; a contract carrier of passengers by motor vehicle, as defined in subdivision nine of section two of the transportation law; or a motor carrier, as defined in subdivision seventeen of section two of the transportation law; nor do they provide taxicab or for-hire vehicle service. Moreover, a TNC driver shall not be required to register the TNC vehicle such TNC driver uses for TNC prearranged trips as a commercial or for-hire vehicle, as set forth in article fourteen of this chapter.

2. A TNC may not operate in the state of New York without first having obtained a license issued by the department in a form and manner and with applicable fees as provided for by regulations promulgated by the commissioner. As a condition of obtaining a license, a TNC shall be required to submit to the department proof of a group policy issued pursuant to section three thousand four hundred fifty-five of the insurance law. Failure of a TNC to obtain a license before operation, pursuant to this subdivision shall constitute a misdemeanor. No license shall be suspended or revoked except upon notice to the TNC and after an opportunity to be heard.

3. A TNC must maintain an agent for service of process in the state of New York.

4. On behalf of a TNC driver, a TNC may charge a fare for the services provided to passengers; provided that, if a fare is collected from a passenger, the TNC shall disclose to the passengers the fare or fare calculation method on its website or within the application service. The TNC shall also provide the passengers with the applicable rates being charged and an estimated fare before the passenger enters the TNC vehicle.

1 5. A TNC's digital network shall display a picture of the TNC driver,  
2 and the make, model, color and license plate number of the TNC vehicle  
3 utilized for providing the TNC prearranged trip before the passenger  
4 enters the TNC vehicle.

5 6. Within a reasonable period of time following the completion of a  
6 trip, a TNC shall transmit an electronic receipt to the passenger on  
7 behalf of the TNC driver that lists:

8 (a) The origin and destination of the trip;

9 (b) The total time and distance of the trip; and

10 (c) An itemization of the total fare paid, if any.

11 7. A TNC driver shall not solicit or accept street hails.

12 8. A TNC shall adopt a policy prohibiting solicitation or acceptance  
13 of cash payments for the fares charged to passengers for TNC prearranged  
14 trips and notify TNC drivers of such policy. TNC drivers shall not  
15 solicit or accept cash payments from passengers.

16 9. Nothing in this article shall apply to cities with a population of  
17 one million or more.

18 § 1693. Financial responsibility of transportation network companies.

19 1. A TNC driver, or TNC on the TNC driver's behalf through a group poli-  
20 cy, shall maintain insurance that recognizes that the driver is a TNC  
21 driver and provides financial responsibility coverage:

22 (a) while the TNC driver is logged onto the TNC's digital network; and

23 (b) while the TNC driver is engaged in a TNC prearranged trip.

24 2. (a) The following automobile financial responsibility insurance  
25 requirements shall apply while a TNC driver is logged onto the TNC's  
26 digital network and is available to receive transportation requests but  
27 is not engaged in a TNC prearranged trip: insurance against loss from  
28 the liability imposed by law for damages, including damages for care and  
29 loss of services, because of bodily injury to or death of any person,  
30 and injury to or destruction of property arising out of the ownership,  
31 maintenance, use or operation of a personal vehicle or vehicles within  
32 this state, exclusive of interest and costs, with respect to each such  
33 occurrence, of at least fifty thousand dollars because of bodily injury  
34 to or death of one person in any one accident and, subject to said limit  
35 for one person, to a limit of at least one hundred thousand dollars  
36 because of bodily injury to or death of two or more persons in any one  
37 accident, and to a limit of at least twenty-five thousand dollars  
38 because of injury to or destruction of property of others in any one  
39 accident provided, however, that such policy need not be for a period  
40 coterminous with the registration period of the personal vehicle  
41 insured, and coverage in satisfaction of the financial responsibility  
42 requirements set forth in section three thousand four hundred twenty of  
43 the insurance law, article fifty-one of the insurance law, and such  
44 other requirements or regulations that may apply for the purposes of  
45 satisfying the financial responsibility requirements with respect to the  
46 use or operation of a motor vehicle.

47 (b) The coverage requirements of paragraph (a) of this subdivision may  
48 be satisfied by any of the following:

49 (i) insurance maintained by the TNC driver; or

50 (ii) insurance provided through a group policy maintained by the TNC;  
51 or

52 (iii) a combination of subparagraphs (i) and (ii) of this paragraph.

53 3. (a) The following automobile financial responsibility insurance  
54 requirements shall apply while a TNC driver is engaged in a TNC prear-  
55 ranged trip: insurance against loss from the liability imposed by law  
56 for damages, including damages for care and loss of services, because of



1 bodily injury to or death of any person, and injury to or destruction of  
2 property arising out of the ownership, maintenance, use, or operation of  
3 a personal vehicle or vehicles within this state, subject to a limit,  
4 exclusive of interest and costs, with respect to each such occurrence,  
5 of at least one million dollars because of bodily injuries, death and  
6 property damage, provided, however, that such policy need not be for a  
7 period coterminous with the registration period of the personal vehicle  
8 insured, and coverage in satisfaction of the financial responsibility  
9 requirements set forth in section three thousand four hundred twenty of  
10 the insurance law, article fifty-one of the insurance law, and such  
11 other requirements or regulations that may apply for the purposes of  
12 satisfying the financial responsibility requirements with respect to the  
13 use or operation of a motor vehicle.

14 (b) The coverage requirements of paragraph (a) of this subdivision may  
15 be satisfied by any of the following:

16 (i) insurance maintained by the TNC driver; or

17 (ii) insurance provided through a group policy maintained by the TNC;  
18 or

19 (iii) a combination of subparagraphs (i) and (ii) of this paragraph.

20 4. A TNC shall, upon entering into a contractual agreement with a TNC  
21 driver, provide notice to the TNC driver that he or she may need addi-  
22 tional insurance coverage including motor vehicle physical damage cover-  
23 age as described in paragraph nineteen of subsection (a) of section one  
24 thousand one hundred thirteen of the insurance law if the TNC vehicle  
25 being used by the TNC driver is subject to a lease or loan. A TNC shall  
26 also post this notice on its website.

27 5. If insurance maintained by a TNC driver pursuant to subdivisions  
28 two and three of this section has lapsed or does not provide the  
29 required coverage, then the group policy maintained by a TNC shall  
30 provide the coverage required by this section beginning with the first  
31 dollar of a claim and have the duty to defend such claim.

32 6. Coverage under a group policy maintained by the TNC shall not be  
33 dependent on the denial of a claim by the insurer that issued the insur-  
34 ance policy used to register the TNC vehicle, nor shall that insurer be  
35 required to first deny a claim.

36 7. (a) Except as provided in subdivision two of this section, a group  
37 policy maintained by a TNC pursuant to subparagraph (ii) of paragraph  
38 (b) of subdivisions two or three of this section shall be placed with an  
39 insurer authorized to write insurance in this state.

40 (b) If a TNC is unable to purchase a group policy pursuant to subpara-  
41 graph (ii) of paragraph (b) of subdivisions two or three of this section  
42 because such insurance is unavailable from authorized insurers the TNC  
43 may acquire such group insurance with an excess line broker pursuant to  
44 section two thousand one hundred eighteen of the insurance law.

45 (c) The obligation to determine whether the insurance required by this  
46 section is unavailable from insurers authorized to write insurance in  
47 this state shall be made prior to the initial placement and each renewal  
48 of a policy.

49 8. Insurance satisfying the requirements of this section may be used,  
50 when the TNC vehicle is being used or operated during the period speci-  
51 fied in subdivision one of this section, to satisfy the financial  
52 responsibility requirements set forth in subdivision four of section  
53 three hundred eleven of this chapter, and any other requirements or  
54 regulations that may apply for the purposes of satisfying the financial  
55 responsibility requirements with respect to the use or operation of a  
56 motor vehicle.



1 9. A TNC driver shall carry proof of coverage satisfying subdivisions  
2 two and three of this section with him or her at all times during his or  
3 her use or operation of a TNC vehicle in connection with a TNC's digital  
4 network. Such proof of coverage shall be in such form as the commission-  
5 er shall prescribe, which may be in the form of an insurance identifica-  
6 tion card as defined in section three hundred eleven of this chapter.  
7 Any insurance identification card issued pursuant to the provisions of  
8 this article shall be in addition to the insurance identification card  
9 required pursuant to article six of this chapter, and nothing contained  
10 in this article shall be deemed to supersede the requirements of such  
11 article six. Whenever the production of an insurance identification card  
12 is required by law, a TNC driver shall (a) produce the insurance iden-  
13 tification card issued pursuant to article six of this chapter and, (b)  
14 if such driver either (i) was logged onto the TNC's digital network or  
15 (ii) was engaged in a TNC prearranged trip and the activity under this  
16 subdivision is being covered primarily by insurance purchased by a TNC  
17 such driver shall also produce the insurance identification card  
18 required pursuant to this article.

19 10. The superintendent of financial services is authorized to issue  
20 such rules and regulations necessary to implement this section.

21 11. Nothing in this section shall impose financial responsibility  
22 requirements upon any entities operating as vehicles for hire in a city  
23 with a population of one million or more.

24 12. A group policy placed by an excess line broker under paragraph  
25 (b) of subdivision seven of this section shall not include a mandatory  
26 arbitration clause in a policy issued pursuant to this section. Nothing  
27 in this section supercedes the mandatory arbitration requirements  
28 contained in section five thousand one hundred five of the insurance  
29 law.

30 § 1694. Disclosures. A TNC shall disclose in writing to TNC drivers  
31 the following before they are allowed to accept a request for a TNC  
32 prearranged trip on the TNC's digital network:

33 1. The insurance coverage, including the types of coverage and the  
34 limits for each coverage, that the TNC provides while the TNC driver  
35 uses a TNC vehicle in connection with a TNC's digital network;

36 2. That the TNC driver's own automobile insurance policy might not  
37 provide any coverage while the TNC driver is logged on to the TNC's  
38 digital network and is available to receive transportation requests or  
39 is engaged in a TNC prearranged trip, depending on its terms; and

40 3. That, if a TNC vehicle has a lien against it, then the continued  
41 use of such TNC vehicle by its TNC driver without physical damage cover-  
42 age may violate the terms of the contract with the lienholder.

43 § 1695. Insurance provisions. 1. Insurers that write motor vehicle  
44 insurance in this state may, in the insurance policy, exclude any and  
45 all coverage afforded under the policy issued to an owner or operator of  
46 a TNC vehicle for any loss or injury that occurs while a TNC driver is  
47 logged on to a TNC's digital network or while a driver provides a prear-  
48 ranged trip, including:

49 (a) liability coverage for bodily injury and property damage;

50 (b) coverage provided pursuant to article fifty-one of the insurance  
51 law;

52 (c) uninsured and underinsured motorist coverage; and

53 (d) motor vehicle physical damage coverage as described in paragraph  
54 nineteen of subsection (a) of section one thousand one hundred thirteen  
55 of the insurance law.

1     2. Such exclusions shall apply notwithstanding any requirement under  
2 the law to the contrary. Nothing in this section implies or requires  
3 that an owner's policy of liability insurance or other motor vehicle  
4 insurance policy provide coverage while the TNC driver is logged on to  
5 the TNC's digital network, while the TNC driver is engaged in a TNC  
6 prearranged trip or while the TNC driver otherwise uses or operates a  
7 TNC vehicle to transport passengers for compensation.

8     3. Nothing shall be deemed to preclude an insurer from providing  
9 primary, excess, or umbrella coverage for the TNC driver's TNC vehicle,  
10 if it chose to do so by contract or endorsement.

11     4. Motor vehicle insurers that exclude the coverage described in this  
12 article shall have no duty to defend or indemnify any claim expressly  
13 excluded thereunder. Nothing in this article shall be deemed to invali-  
14 date or limit an exclusion contained in a policy including any policy in  
15 use or approved for use in this state prior to the effective date of  
16 this section.

17     5. A motor vehicle insurer that defends or indemnifies a claim against  
18 a TNC driver that is excluded under the terms of its policy shall have a  
19 right of contribution against other insurers that provide motor vehicle  
20 insurance to the same driver in satisfaction of the coverage require-  
21 ments of the provisions of the chapter of the laws of two thousand  
22 seventeen which added this article at the time of loss.

23     6. In a claims coverage investigation, a TNC and any insurer poten-  
24 tially providing coverage under this article shall, within fifteen days  
25 after a claim has been filed, facilitate the exchange of relevant infor-  
26 mation with directly involved parties and any insurer of the TNC driver  
27 if applicable, including the precise times that a TNC driver logged on  
28 and off of the TNC's digital network in the twelve hour period imme-  
29 diately preceding and in the twelve hour period immediately following  
30 the accident and disclose to one another a clear description of the  
31 coverage, exclusions and limits provided under any motor vehicle insur-  
32 ance maintained under this article.

33     7. (a) The commissioner shall promulgate regulations for the provision  
34 of relevant insurance coverage information required by this article to  
35 the following persons upon request:

36     (i) a person to whom an accident report pertains or who is named in  
37 such report, or his or her authorized representative; and

38     (ii) any other person or his or her authorized representative who has  
39 demonstrated to the satisfaction of the commissioner that such person is  
40 or may be a party to a civil action arising out of the conduct described  
41 in such accident report.

42     (b) Except as provided under paragraph (a) of this subdivision, the  
43 name of a TNC driver associated with such insurance information is  
44 designated confidential whether or not so marked, is not subject to  
45 disclosure by a third party by the department of motor vehicles without  
46 prior consent of the TNC, and is exempt from disclosure pursuant to  
47 article six of the public officers law. Nothing in this section shall be  
48 considered as limiting the applicability of any other exemptions under  
49 article six of the public officers law.

50     § 1696. Driver and vehicle requirements. 1. (a) At all times, an indi-  
51 vidual acting as a TNC driver shall be permitted by the TNC as follows:

52     (i) The individual shall submit an application to the TNC, which shall  
53 include information regarding his or her address, age, driver's license,  
54 motor vehicle registration, automobile liability insurance, and other  
55 information required by the TNC;

1 (ii) The TNC shall conduct or have a third party conduct, a local and  
2 national, criminal background check for each applicant in accordance  
3 with section sixteen hundred ninety-nine of this article and that shall  
4 review;

5 (A) Whether the applicant is listed on the publicly available New York  
6 state sex offender registry pursuant to section one hundred  
7 sixty-eight-q of the correction law; and

8 (B) The United States Department of Justice National Sex Offender  
9 public website;

10 (iii) The TNC shall obtain and review, or have a third party obtain  
11 and review, a driving history research report for such individual.

12 (b) The TNC shall not permit an applicant where such applicant:

13 (i) fails to meet all qualifications pursuant to section sixteen  
14 hundred ninety-nine of this article;

15 (ii) is a match in the United States Department of Justice National  
16 Sex Offender Public Website;

17 (iii) does not possess a valid New York driver's license, unless such  
18 applicant does possess a valid out of state driver's license and proof  
19 that such applicant is an active duty member of the armed services of  
20 the United States stationed in this state or is a family or household  
21 member of such an active duty member;

22 (iv) does not possess proof of registration for the motor vehicle(s)  
23 used to provide TNC prearranged trips;

24 (v) does not possess proof of automobile liability insurance for the  
25 motor vehicle(s) used to provide TNC prearranged trips as a TNC vehicle;  
26 or

27 (vi) is not at least nineteen years of age.

28 (c) Upon review of all information received and retained by the TNC  
29 and upon verifying that the individual is not disqualified pursuant to  
30 this section from receiving a TNC driver permit, a TNC may issue a TNC  
31 driver permit to the applicant. The TNC shall review all information  
32 received relating to such applicant and hold such information for six  
33 years along with a certification that such applicant qualifies to  
34 receive a TNC driver permit.

35 (d) A TNC that issues a TNC driver's permit pursuant to this section  
36 shall participate in the New York License Event Notification Service  
37 (LENS) established by the department to obtain timely notice when any of  
38 the following violations are added to a TNC driver's driving record:

39 (i) unlawfully fleeing a police officer in a motor vehicle in  
40 violation of sections 270.25, 270.30 or 270.35 of the penal law;

41 (ii) reckless driving in violation of section one thousand two hundred  
42 twelve of this chapter;

43 (iii) operating while license or privilege is suspended or revoked in  
44 violation of section five hundred eleven of this chapter, excluding  
45 subdivision seven of such section;

46 (iv) operating a motor vehicle under the influence of alcohol or drugs  
47 in violation of section one thousand one hundred ninety-two of this  
48 chapter; and

49 (v) leaving the scene of an incident without reporting in violation of  
50 subdivision two of section six hundred of this chapter.

51 (e) The name of a TNC driver associated with enrollment in the depart-  
52 ment's LENS reporting system is designated confidential whether or not  
53 so marked, is not subject to disclosure to a third party by the depart-  
54 ment without prior consent of the TNC, and is exempt from disclosure  
55 pursuant to article six of the public officers law. Nothing in this

1 section shall be construed as limiting the applicability of any other  
2 exemptions under article six of the public officers law.

3 (f) No person shall operate a TNC vehicle or operate as a TNC driver  
4 unless such person holds a valid TNC driver permit issued pursuant to  
5 this section. A violation of this paragraph shall be a traffic infrac-  
6 tion punishable by a fine of not less than seventy-five nor more than  
7 three hundred dollars, or by imprisonment for not more than fifteen  
8 days, or by both such fine and imprisonment.

9 2. A TNC shall implement a zero-tolerance policy regarding a TNC driv-  
10 er's activities while accessing the TNC's digital network. Such policy  
11 shall address the issue of operating a vehicle under the influence of  
12 alcohol or drugs while a TNC driver is providing TNC prearranged trips  
13 or is logged onto the TNC's digital network but is not providing TNC  
14 prearranged trips, and the TNC shall provide notice of this policy on  
15 its digital network, as well as procedures to report a complaint about a  
16 TNC driver with whom a TNC prearranged trip was commenced and whom the  
17 passenger reasonably suspects was operating a vehicle under the influ-  
18 ence of alcohol or drugs during the course of the TNC prearranged trip.

19 3. (a) A TNC shall adopt a policy of non-discrimination on the basis  
20 of destination, race, color, national origin, religious belief, practice  
21 or affiliation, sex, disability, age, sexual orientation, gender identi-  
22 ty, or genetic predisposition with respect to passengers and potential  
23 passengers and notify TNC drivers of such policy.

24 (b) TNC drivers shall comply with all applicable laws regarding non-  
25 discrimination against passengers or potential passengers on the basis  
26 of destination, race, color, national origin, religious belief, practice  
27 or affiliation, sex, disability, age, sexual orientation, gender identi-  
28 ty, or genetic predisposition.

29 (c) TNC drivers shall comply with all applicable laws relating to  
30 accommodation of service animals.

31 (d) A TNC shall implement and maintain a policy of providing accessi-  
32 bility to passengers or potential passengers with a disability and  
33 accommodation of service animals as such term is defined in section one  
34 hundred twenty-three-b of the agriculture and markets law and shall to  
35 the extent practicable adopt findings established by the New York state  
36 TNC accessibility task force adopted pursuant to section eighteen of the  
37 chapter of the laws of two thousand seventeen that added this section.  
38 A TNC shall not impose additional charges for providing services to  
39 persons with physical disabilities because of those disabilities.

40 4. A TNC shall require that any motor vehicle(s) that a TNC driver  
41 will use as a TNC vehicle to provide TNC prearranged trips meets appli-  
42 cable New York state vehicle safety and emissions requirements, as set  
43 forth in section three hundred one of this chapter, or the vehicle safe-  
44 ty and emissions requirements of the state in which the vehicle is  
45 registered.

46 5. A TNC driver shall display a consistent and distinctive trade dress  
47 consisting of a removable logo, insignia, or emblem at all times the  
48 driver is providing TNC services. The trade dress shall be:

49 (a) Sufficiently large and color contrasted so as to be readable  
50 during daylight hours at a distance of fifty feet; and

51 (b) Reflective, illuminated, or otherwise patently visible in the  
52 darkness.

53 § 1697. Maintenance of records. A TNC shall maintain the following  
54 records:

55 1. individual trip records for at least six years from the date each  
56 trip was provided; and

1 2. individual records of TNC drivers at least until the six year anni-  
2 versary of the date on which a TNC driver's relationship with the TNC  
3 has ended.

4 § 1698. Audit procedures; confidentiality of records. 1. For the sole  
5 purpose of verifying that a TNC is in compliance with the requirements  
6 of this article and no more than biannually, the department shall  
7 reserve the right to visually inspect a sample of records that the TNC  
8 is required to maintain, upon request by the department that shall be  
9 fulfilled in no less than thirty business days by the TNC. The sample  
10 shall be chosen randomly by the department in a manner agreeable to both  
11 parties. The audit shall take place at a mutually agreed location in New  
12 York. Any record furnished to the department may exclude information  
13 that would tend to identify specific drivers or passengers.

14 2. (a) The TNC shall establish a complaint procedure that allows  
15 passengers to file complaints with the TNC through the TNC's website,  
16 mobile application, email address, or phone number.

17 (b) The TNC's website shall also provide a passenger complaint tele-  
18 phone number and/or website address for the department, if applicable.

19 (c) In response to a specific complaint against any TNC driver or TNC,  
20 the department is authorized to inspect records held by the TNC that are  
21 necessary to investigate and resolve the complaint. The TNC and the  
22 department shall endeavor to have the inspection take place at a mutual-  
23 ly agreed location in New York. Any record furnished to the department  
24 may exclude information that would tend to identify specific drivers or  
25 passengers, unless the identity of a driver or passenger is relevant to  
26 the complaint.

27 (d) Any records inspected by the department under this section are  
28 designated confidential, are not subject to disclosure to a third party  
29 by the department without prior consent of the TNC, and are exempt from  
30 disclosure under article six of the public officers law. Nothing in this  
31 section shall be construed as limiting the applicability of any other  
32 exemption under article six of the public officers law.

33 3. The department shall promulgate regulations for the filing of  
34 complaints pursuant to this section.

35 § 1699. Criminal history background check of transportation network  
36 company drivers. 1. A TNC shall conduct a criminal history background  
37 check using a lawful method approved by the department pursuant to para-  
38 graph (a) of subdivision two of this section for persons applying to  
39 drive for such company.

40 2. (a) The method used to conduct a criminal history background check  
41 pursuant to subdivision one of this section shall be established in  
42 regulations adopted by the department within thirty days of the effec-  
43 tive date of this subdivision. Such regulations shall establish the  
44 method used to conduct such background checks and any processes and  
45 operations necessary to complete such checks. The review of criminal  
46 history information and determinations about whether or not an applicant  
47 is issued a TNC driver permit shall be controlled by paragraphs (b), (c)  
48 and (d) of this subdivision.

49 (b) An applicant shall be disqualified to receive a TNC driver permit  
50 where he or she:

51 (i) stands convicted in the last three years of: unlawful fleeing a  
52 police officer in a motor vehicle in violation of sections 270.35,  
53 270.30 or 270.25 of the penal law, reckless driving in violation of  
54 section twelve hundred twelve of this chapter, operating while license  
55 or privilege is suspended or revoked in violation of section five  
56 hundred eleven of this chapter, excluding subdivision seven of such



1 section, a misdemeanor offense of operating a motor vehicle while under  
2 the influence of alcohol or drugs in violation of section one thousand  
3 one hundred ninety-two of this chapter, or leaving the scene of an acci-  
4 dent in violation of subdivision two of section six hundred of this  
5 chapter. In calculating the three year period under this subparagraph,  
6 any period of time during which the person was incarcerated after the  
7 commission of such offense shall be excluded and such three year period  
8 shall be extended by a period or periods equal to the time spent incar-  
9 cerated and shall be determined in a manner consistent with regulations  
10 established by the department; or

11 (ii) stands convicted in the last seven years of: a sex offense  
12 defined in subdivision two of section one hundred sixty-eight-a of the  
13 correction law, a felony offense defined in article one hundred twenty-  
14 five of the penal law, a violent felony offense defined in section 70.02  
15 of the penal law, a class A felony offense defined in the penal law,  
16 vehicular assault as defined in section 120.03, 120.04 or 120.04-a of  
17 the penal law, a felony offense defined in section eleven hundred nine-  
18 ty-two of this chapter, an offense for which registration as a sex  
19 offender is required pursuant to article six-C of the correction law, or  
20 any conviction of an offense in any other jurisdiction that has all the  
21 essential elements of an offense listed in this subparagraph. In calcu-  
22 lating the seven year period under this subparagraph, any period of time  
23 during which the person was incarcerated after the commission of such  
24 offense shall be excluded and such seven year period shall be extended  
25 by a period or periods equal to the time spent incarcerated and shall be  
26 determined in a manner consistent with regulations established by the  
27 department.

28 (c) A criminal history record that contains criminal conviction infor-  
29 mation that does not disqualify an applicant pursuant to subparagraphs  
30 (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and  
31 considered according to the provisions of article twenty-three-A of the  
32 correction law and subdivisions fifteen and sixteen of section two  
33 hundred ninety-six of the executive law in determining whether or not  
34 the applicant should be issued a TNC driver's permit.

35 (d) Upon receipt of criminal conviction information pursuant to this  
36 section for any applicant, such applicant shall promptly be provided  
37 with a copy of such information as well as a copy of article twenty-  
38 three-A of the correction law. Such applicant shall also be informed of  
39 his or her right to seek correction of any incorrect information  
40 contained in such criminal history information pursuant to the regu-  
41 lations and procedures established by the division of criminal justice  
42 services.

43 (e) The department shall promulgate regulations consistent with the  
44 provisions of this subdivision.

45 3. A TNC shall update the criminal history background check yearly  
46 during the period in which the person is authorized to drive for the  
47 company, however, the commissioner may require, pursuant to regulation,  
48 more frequent criminal history background checks.

49 4. A TNC shall be responsible for all fees associated with the crimi-  
50 nal history check pursuant to subdivision one of this section.

51 5. Any TNC found to have negligently, recklessly, or intentionally  
52 violated any requirements established pursuant to this section, shall on  
53 the first instance, be subject to a civil penalty of not more than ten  
54 thousand dollars. For any subsequent instance within the period of two  
55 years from any initial violation, such TNC shall be subject to a civil



1 penalty of not more than fifty thousand dollars, or the suspension or  
2 revocation of its TNC license or both.

3 § 1700. Controlling authority. 1. Notwithstanding any other provision  
4 of law, the regulation of TNCs and TNC drivers is governed exclusively  
5 by the provisions of the chapter of the laws of two thousand seventeen  
6 which added this section and any rules promulgated by the state through  
7 its agencies consistent with such chapter. No county, town, city or  
8 village may enact a tax or any fee or other surcharge on a TNC, a TNC  
9 driver, or a TNC vehicle used by a TNC driver or require a license,  
10 permit, or additional insurance coverage or any other limitations or  
11 restrictions, where such fee, surcharge, unauthorized tax, license,  
12 permit, insurance coverage, limitation or restriction, relates to facil-  
13 itating or providing TNC prearranged trips, or subjects a TNC, a TNC  
14 driver, or a TNC vehicle used by a TNC driver to operational, or other  
15 requirements.

16 2. Nothing in this article shall authorize any TNC driver to pick-up a  
17 passenger for purposes of a TNC prearranged trip in a city with a popu-  
18 lation of one million or more.

19 3. Nothing in this article shall: (a) limit the ability of a county,  
20 town, city or village to adopt or amend generally applicable limitations  
21 or restrictions relating to local traffic or parking control as author-  
22 ized by state law; or (b) to preempt any reciprocity agreements, includ-  
23 ing agreements entered into pursuant to section four hundred ninety-  
24 eight of this chapter, between a county, town, city or village that  
25 relates to services regulated by section one hundred eighty-one of the  
26 general municipal law.

27 § 3. Section 370 of the vehicle and traffic law is amended by adding a  
28 new subdivision 8 to read as follows:

29 8. Notwithstanding any other provision of this article, an individual  
30 shall not be deemed to be engaged in the business of carrying or trans-  
31 porting passengers for hire if the individual does so solely as a trans-  
32 portation network company driver in accordance with article forty-four-B  
33 of this chapter.

34 § 4. Subdivision 1 of section 312-a of the vehicle and traffic law, as  
35 amended by chapter 781 of the laws of 1983, is amended to read as  
36 follows:

37 1. Upon issuance of an owner's policy of liability insurance or other  
38 financial security required by this chapter or the article forty-four-B  
39 of this chapter, an insurer shall issue proof of insurance in accordance  
40 with the regulations promulgated by the commissioner pursuant to para-  
41 graph (b) of subdivision two of section three hundred thirteen of this  
42 article.

43 § 5. Section 600 of the vehicle and traffic law, as amended by chapter  
44 49 of the laws of 2005, is amended to read as follows:

45 § 600. Leaving scene of an incident without reporting. 1. Property  
46 damage. a. Any person operating a motor vehicle who, knowing or having  
47 cause to know that damage has been caused to the real property or to the  
48 personal property, not including animals, of another, due to an incident  
49 involving the motor vehicle operated by such person shall, before leav-  
50 ing the place where the damage occurred, stop, exhibit his or her  
51 license and insurance identification card for such vehicle, when such  
52 card is required pursuant to articles six and eight of this chapter, and  
53 give his or her name, residence, including street and number, insurance  
54 carrier and insurance identification information including but not  
55 limited to the number and effective dates of said individual's insurance  
56 policy, and license number to the party sustaining the damage, or in

1 case the person sustaining the damage is not present at the place where  
2 the damage occurred then he or she shall report the same as soon as  
3 physically able to the nearest police station, or judicial officer. In  
4 addition to the foregoing, any such person shall also: (i) produce the  
5 proof of insurance coverage required pursuant to article forty-four-B of  
6 this chapter if such person is a TNC driver operating a TNC vehicle  
7 while the incident occurred who was either (A) logged on to the TNC's  
8 digital network and available to receive transportation requests but not  
9 engaged in a TNC prearranged trip or (B) was logged on to the TNC's  
10 digital network and was engaged in a TNC prearranged trip; and (ii)  
11 disclose whether he or she, at the time such incident occurred, was  
12 either (A) logged on to the TNC's digital network and available to  
13 receive transportation requests but not engaged in a TNC prearranged  
14 trip or (B) was logged on to the TNC's digital network and was engaged  
15 in a TNC prearranged trip.

16 b. It shall be the duty of any member of a law enforcement agency who  
17 is at the scene of the accident to request the said operator or opera-  
18 tors of the motor vehicles, when physically capable of doing so, to  
19 exchange the information required hereinabove and such member of a law  
20 enforcement agency shall assist such operator or operators in making  
21 such exchange of information in a reasonable and harmonious manner.

22 A violation of the provisions of paragraph a of this subdivision shall  
23 constitute a traffic infraction punishable by a fine of up to two  
24 hundred fifty dollars or a sentence of imprisonment for up to fifteen  
25 days or both such fine and imprisonment.

26 2. Personal injury. a. Any person operating a motor vehicle who,  
27 knowing or having cause to know that personal injury has been caused to  
28 another person, due to an incident involving the motor vehicle operated  
29 by such person shall, before leaving the place where the said personal  
30 injury occurred, stop, exhibit his or her license and insurance iden-  
31 tification card for such vehicle, when such card is required pursuant to  
32 articles six and eight of this chapter, and give his or her name, resi-  
33 dence, including street and street number, insurance carrier and insur-  
34 ance identification information including but not limited to the number  
35 and effective dates of said individual's insurance policy and license  
36 number, to the injured party, if practical, and also to a police offi-  
37 cer, or in the event that no police officer is in the vicinity of the  
38 place of said injury, then, he or she shall report said incident as soon  
39 as physically able to the nearest police station or judicial officer.  
40 In addition to the foregoing, any such person shall also: (i) produce  
41 the proof of insurance coverage required pursuant to article  
42 forty-four-B of this chapter if such person is a TNC driver operating a  
43 TNC vehicle at the time of the incident who was either (A) logged on to  
44 the TNC's digital network and available to receive transportation  
45 requests but not engaged in a TNC prearranged trip or (B) was logged on  
46 to the TNC's digital network and was engaged in a TNC prearranged trip;  
47 and (ii) disclose whether he or she, at the time such incident occurred,  
48 was either (A) logged on to the TNC's digital network and available to  
49 receive transportation requests but not engaged in a TNC prearranged  
50 trip or (B) was logged on to the TNC's digital network and was engaged  
51 in a TNC prearranged trip.

52 b. It shall be the duty of any member of a law enforcement agency who  
53 is at the scene of the accident to request the said operator or opera-  
54 tors of the motor vehicles, when physically capable of doing so, to  
55 exchange the information required hereinabove and such member of a law

1 enforcement agency shall assist such operator or operators in making  
2 such exchange of information in a reasonable and harmonious manner.

3 c. A violation of the provisions of paragraph a of this subdivision  
4 resulting solely from the failure of an operator to exhibit his or her  
5 license and insurance identification card for the vehicle or exchange  
6 the information required in such paragraph shall constitute a class B  
7 misdemeanor punishable by a fine of not less than two hundred fifty nor  
8 more than five hundred dollars in addition to any other penalties  
9 provided by law. Any subsequent such violation shall constitute a class  
10 A misdemeanor punishable by a fine of not less than five hundred nor  
11 more than one thousand dollars in addition to any other penalties  
12 provided by law. Any violation of the provisions of paragraph a of this  
13 subdivision, other than for the mere failure of an operator to exhibit  
14 his or her license and insurance identification card for such vehicle or  
15 exchange the information required in such paragraph, shall constitute a  
16 class A misdemeanor, punishable by a fine of not less than five hundred  
17 dollars nor more than one thousand dollars in addition to any other  
18 penalties provided by law. Any such violation committed by a person  
19 after such person has previously been convicted of such a violation  
20 shall constitute a class E felony, punishable by a fine of not less than  
21 one thousand nor more than two thousand five hundred dollars in addition  
22 to any other penalties provided by law. Any violation of the provisions  
23 of paragraph a of this subdivision, other than for the mere failure of  
24 an operator to exhibit his or her license and insurance identification  
25 card for such vehicle or exchange the information required in such para-  
26 graph, where the personal injury involved (i) results in serious phys-  
27 ical injury, as defined in section 10.00 of the penal law, shall consti-  
28 tute a class E felony, punishable by a fine of not less than one  
29 thousand nor more than five thousand dollars in addition to any other  
30 penalties provided by law, or (ii) results in death shall constitute a  
31 class D felony punishable by a fine of not less than two thousand nor  
32 more than five thousand dollars in addition to any other penalties  
33 provided by law.

34 3. For the purposes of this article, the terms "TNC", "TNC driver",  
35 "TNC vehicle", "TNC prearranged trip" and "digital network" shall have  
36 the same meanings as such terms are defined in article forty-four-B of  
37 this chapter.

38 § 5-a. Section 601 of the vehicle and traffic law, as amended by chap-  
39 ter 672 of the laws of 2004, is amended to read as follows:

40 § 601. Leaving scene of injury to certain animals without reporting.  
41 Any person operating a motor vehicle which shall strike and injure any  
42 horse, dog, cat or animal classified as cattle shall stop and endeavor  
43 to locate the owner or custodian of such animal or a police, peace or  
44 judicial officer of the vicinity, and take any other reasonable and  
45 appropriate action so that the animal may have necessary attention, and  
46 shall also promptly report the matter to such owner, custodian or offi-  
47 cer (or if no one of such has been located, then to a police officer of  
48 some other nearby community), exhibiting his or her license and insur-  
49 ance identification card for such vehicle, when such card is required  
50 pursuant to articles six and eight of this chapter, giving his or her  
51 name and residence, including street and street number, insurance carri-  
52 er and insurance identification information and license number. In addi-  
53 tion to the foregoing, any such person shall also: (i) produce the proof  
54 of insurance coverage required pursuant to article forty-four-B of this  
55 chapter is such person is a TNC driver operating a TNC vehicle at the  
56 time of the incident who was either (A) logged on to the TNC's digital

1 network and available to receive transportation requests but not engaged  
2 in a TNC prearranged trip or (B) was logged on to the TNC's digital  
3 network and was engaged in a TNC prearranged trip and (ii) disclose  
4 whether he or she, at the time such incident occurred, was either (A)  
5 logged on to the TNC's digital network and available to receive trans-  
6 portation requests but not engaged in a TNC prearranged trip or (B) was  
7 logged on to the TNC's digital network and was engaged in a TNC prear-  
8 ranged trip. Violation of this section shall be punishable by a fine of  
9 not more than one hundred dollars for a first offense and by a fine of  
10 not less than fifty nor more than one hundred fifty dollars for a second  
11 offense and each subsequent offense; provided, however where the animal  
12 that has been struck and injured is a guide dog, hearing dog or service  
13 dog, as such terms are defined in section forty-seven-b of the civil  
14 rights law which is actually engaged in aiding or guiding a person with  
15 a disability, a violation of this section shall be [~~publishable~~] punish-  
16 able by a fine of not less than fifty nor more than one hundred fifty  
17 dollars for a first offense and by a fine of not less than one hundred  
18 fifty dollars nor more than three hundred dollars for a second offense  
19 and each subsequent offense.

20 § 6. The insurance law is amended by adding a new section 3455 to read  
21 as follows:

22 § 3455. Transportation network company group insurance policies. (a)  
23 For purposes of this section, the following definitions shall apply:

24 (1) "Transportation network company" shall have the same meaning as  
25 set forth in article forty-four-B of the vehicle and traffic law.

26 (2) "Certificate" or "certificate of insurance" means any policy,  
27 contract or other evidence of insurance, or endorsement thereto, issued  
28 to a group member under a transportation network company group policy.

29 (3) "Transportation network company group policy" or "group policy"  
30 means a group policy, including certificates issued to the group  
31 members, where the group policyholder is a transportation network compa-  
32 ny and the policy provides insurance to the transportation network  
33 company and to group members:

34 (A) in accordance with the requirements of article forty-four-B of the  
35 vehicle and traffic law;

36 (B) of the type described in paragraph thirteen, fourteen, or nineteen  
37 of subsection (a) of section one thousand one hundred thirteen of this  
38 chapter; and

39 (C) in satisfaction of the financial responsibility requirements set  
40 forth in section three thousand four hundred twenty of this article,  
41 subdivision four of section three hundred eleven of the vehicle and  
42 traffic law, article fifty-one of this chapter, and such other require-  
43 ments or regulations that may apply for the purposes of satisfying the  
44 financial responsibility requirements with respect to the use or opera-  
45 tion of a motor vehicle.

46 (4) "Group member" means a transportation network company driver as  
47 defined in article forty-four-B of the vehicle and traffic law.

48 (5) "Group policyholder" means a transportation network company.

49 (6) "TNC vehicle" shall have the meaning set forth in article forty-  
50 four-B of the vehicle and traffic law.

51 (b) An insurer may issue or issue for delivery in this state a trans-  
52 portation network company group policy to a transportation network  
53 company as a group policyholder only in accordance with the provisions  
54 of this section.

1 (c)(1) A transportation network company group policy shall provide  
2 coverage for a TNC vehicle in accordance with the requirements of arti-  
3 cle forty-four-B of the vehicle and traffic law.

4 (2) A transportation network company group policy may provide:

5 (A) coverage for limits higher than the minimum limits required pursu-  
6 ant to article forty-four-B of the vehicle and traffic law.

7 (B) supplementary uninsured/underinsured motorists insurance for bodi-  
8 ly injury pursuant to paragraph two of subsection (f) of section three  
9 thousand four hundred twenty of this article;

10 (C) supplemental spousal liability insurance pursuant to subsection  
11 (g) of section three thousand four hundred twenty of this chapter; and

12 (D) motor vehicle physical damage coverage as described in paragraph  
13 nineteen of subsection (a) of section one thousand one hundred thirteen  
14 of this chapter.

15 (3) The coverage described in paragraphs one and two of this  
16 subsection may be provided in one group policy or in separate group  
17 policies.

18 (4) A transportation network company group policy, including certif-  
19 icates, shall be issued by authorized insurers or from excess line  
20 brokers pursuant to section sixteen hundred ninety-three of the vehicle  
21 and traffic law.

22 (5) A policyholder also may be an insured under a group policy.

23 (d) The premium for the transportation network company group policy,  
24 including certificates may be paid by the group policyholder from the  
25 funds contributed:

26 (1) wholly by the group policyholder;

27 (2) wholly by the group members; or

28 (3) jointly by the group policyholder and the group members.

29 (e) (1) Any policy dividend, retrospective premium credit, or retro-  
30 spective premium refund in respect of premiums paid by the group policy-  
31 holder may:

32 (A) be applied to reduce the premium contribution of the group policy-  
33 holder, but not in excess of the proportion to its contribution; or

34 (B) be retained by the group policyholder.

35 (2) Any policy dividend, retrospective premium credit, or retrospec-  
36 tive premium refund not distributed under paragraph one of this  
37 subsection shall be:

38 (A) applied to reduce future premiums and, accordingly, future  
39 contributions, of existing or future group members, or both; or

40 (B) paid or refunded to those group members insured on the date the  
41 payment or refund is made to the group policyholder, if distributed by  
42 the group policyholder, or on the date of mailing, if distributed  
43 directly by the insurer, subject to the following requirements:

44 (i) The insurer shall be responsible for determining the allocation of  
45 the payment of refund to the group members;

46 (ii) If the group policyholder distributes the payment or refund, the  
47 insurer shall be responsible for audit to ascertain that the payment or  
48 refund is actually made in accordance with the allocation procedure; and

49 (iii) If the group policyholder fails to make the payment or refund,  
50 the insurer shall make the payment or refund directly or use the method  
51 provided in subparagraph (A) of this paragraph.

52 (3) Notwithstanding paragraphs one and two of this subsection, if a  
53 dividend accrues upon termination of coverage under a transportation  
54 network company group policy, the premium for which was paid out of  
55 funds contributed by group members specifically for the coverage, the  
56 dividend shall be paid or refunded by the group policyholder to the



1 group members insured on the date the payment or refund is made to the  
2 group policyholder, net of reasonable expenses incurred by the group  
3 policyholder in paying or refunding the dividend to such group members.

4 (4) For the purposes of this subsection, "dividend" means a return by  
5 the insurer of a transportation network company group policy of excess  
6 premiums to the group policyholder in light of favorable loss experi-  
7 ence, including retrospective premium credits or retrospective premium  
8 refunds. The term "dividend" does not include reimbursements or fees  
9 received by a group policyholder in connection with the operation or  
10 administration of a transportation network company group policy, includ-  
11 ing administrative reimbursements, fees for services provided by the  
12 group policyholder, or transactional service fees.

13 (f) The insurer shall treat in like manner all eligible group members  
14 of the same class and status.

15 (g) Each policy written pursuant to this section shall provide per  
16 occurrence limits of coverage for each group member in an amount not  
17 less than that required by this article, and may provide coverage for  
18 limits higher than the minimum limits required under the law.

19 (h) (1) The insurer shall be responsible for mailing or delivery of a  
20 certificate of insurance to each group member insured under the trans-  
21 portation network company group policy, provided, however, that the  
22 insurer may delegate the mailing or delivery to the transportation  
23 network company. The insurer shall also be responsible for the mailing  
24 or delivery to each group member of an amended certificate of insurance  
25 or endorsement to the certificate, whenever there is a change in limits;  
26 change in type of coverage; addition, reduction, or elimination of  
27 coverage; or addition of exclusion, under the transportation network  
28 company group policy or certificate if such change materially affects  
29 the coverage available to such group member.

30 (2) The certificate shall contain in substance all material terms and  
31 conditions of coverage afforded to group members, unless the transporta-  
32 tion network company group policy is incorporated by reference and a  
33 copy of the group policy accompanies the certificate.

34 (3) If any coverage afforded to the group member is excess of applica-  
35 ble insurance coverage, the certificate shall contain a notice advising  
36 the group members that, if the member has other insurance coverage,  
37 specified coverages under the transportation network company group poli-  
38 cy will be excess over the other insurance.

39 (i) A group policyholder shall comply with the provisions of section  
40 two thousand one hundred twenty-two of this chapter, in the same manner  
41 as an agent or broker, in any advertisement, sign, pamphlet, circular,  
42 card, or other public announcement referring to coverage under a trans-  
43 portation network company group policy or certificate.

44 (j) A transportation network company group policy shall not be subject  
45 to section three thousand four hundred twenty-five or section three  
46 thousand four hundred twenty-six of this article; provided that the  
47 following requirements shall apply with regard to termination of cover-  
48 age:

49 (1)(A) An insurer may terminate a group policy or certificate only if  
50 cancellation is based on one or more of the reasons set forth in subpar-  
51 agraph (A) through (D) or (F) through (H) of paragraph one of subsection  
52 (c) of section three thousand four hundred twenty-six of this article;  
53 provided, however, that an act or omission by a group member that would  
54 constitute the basis for cancellation of an individual certificate shall  
55 not constitute the basis for cancellation of the group policy.

1 (B) Where the premium is derived wholly from funds contributed by the  
2 group policyholder, an insurer may cancel an individual certificate only  
3 if cancellation is based on one or more of the reasons set forth in  
4 subparagraph (B), (C) or (H) of paragraph one of subsection (c) of  
5 section three thousand four hundred twenty-six of this article.

6 (2) (A) An insurer's cancellation of a group policy, including all  
7 certificates, shall not become effective until thirty days after the  
8 insurer mails or delivers written notice of cancellation to the group  
9 policyholder at the mailing address shown in the policy.

10 (i) Where all or part of the premium is derived from funds contributed  
11 by the group member specifically for the coverage, the insurer shall  
12 also mail or deliver written notice of cancellation of the group policy  
13 to the group member at the group member's mailing address. Such cancel-  
14 lation shall not become effective until thirty days after the insurer  
15 mails or delivers the written notice to the group member.

16 (ii) Where none of the premium is derived from funds contributed by a  
17 group member specifically for the coverage, the group policy holder  
18 shall mail or deliver written notice to the group member advising the  
19 group member of the cancellation of the group policy and the effective  
20 date of cancellation. The group policy holder shall mail or deliver the  
21 written notice within ninety days after receiving notice of cancellation  
22 from the insurer.

23 (B) An insurer's cancellation of an individual certificate shall not  
24 become effective until thirty days after the insurer mails or delivers  
25 written notice of cancellation to the group member at the group member's  
26 mailing address and to the group policyholder at the mailing address  
27 shown in the group policy.

28 (3) (A) A group policyholder may cancel a group policy, including all  
29 certificates, or any individual certificate, for any reason upon thirty  
30 days written notice to the insurer and each group member; and

31 (B) The group policyholder shall mail or deliver written notice to  
32 each affected group member of the group policyholder's cancellation of  
33 the group policy or certificate and the effective date of cancellation.  
34 The group policyholder shall mail or deliver the written notice to the  
35 group member's mailing address at least thirty days prior to the effec-  
36 tive date of cancellation.

37 (4) (A) Unless a group policy provides for a longer policy period, the  
38 policy and all certificates shall be issued or renewed for a one-year  
39 policy period.

40 (B) The group policyholder shall be entitled to renew the group policy  
41 and all certificates upon timely payment of the premium billed to the  
42 group policyholder for the renewal, unless:

43 (i) the insurer mails or delivers to the group policyholder and all  
44 group members written notice of nonrenewal, or conditional renewal; and

45 (ii) the insurer mails or delivers the written notice at least thirty,  
46 but not more than one hundred twenty days prior to the expiration date  
47 specified in the policy or, if no date is specified, the next anniver-  
48 sary date of the policy.

49 (5) Where the group policyholder nonrenews the group policy, the group  
50 policyholder shall mail or deliver written notice to each group member  
51 advising the group member of nonrenewal of the group policy and the  
52 effective date of nonrenewal. The group policyholder shall mail or  
53 deliver written notice at least thirty days prior to the nonrenewal.

54 (6) Every notice of cancellation, nonrenewal, or conditional renewal  
55 shall set forth the specific reason or reasons for cancellation, nonre-  
56 newal, or conditional renewal.

(7) (A) An insurer shall not be required under this subsection to give notice to a group member if the insurer has been advised by either the group policyholder or another insurer that substantially similar coverage has been obtained from the other insurer without lapse of coverage.

(B) A group policyholder shall not be required under this subsection to give notice to a group member if substantially similar coverage has been obtained from another insurer without lapse of coverage.

(8) (A) If, prior to the effective date of cancellation, nonrenewal, or conditional renewal of the group policy, or a certificate, whether initiated by the insurer, group policyholder or by the group member in regard to the group member's certificate, coverage attaches pursuant to the terms of a group policy, then the coverage shall be effective until expiration of the applicable period of coverage provided in the group policy notwithstanding the cancellation, nonrenewal or conditional nonrenewal of the group policy.

(B) Notwithstanding subparagraph (A) of this paragraph, an insurer may terminate coverage under an individual certificate on the effective date of cancellation, if the certificate is cancelled in accordance with the provisions of subparagraph (B) of paragraph one of this subsection.

(k) Any mailing or delivery to a group member required or permitted under this section may be made by electronic mail, or other electronic means, if consent to such method of delivery has been previously received from such group member.

(l) An insurer may issue a transportation network company group policy to a transportation network company, notwithstanding that it may be a condition of operating a vehicle on the transportation network company's digital network for the TNC driver to participate in such group policy.

(m) An insurer shall not include a mandatory arbitration clause in a policy that provides financial responsibility coverage under this section except as permitted in section five thousand one hundred five of this chapter.

§ 6-a. Subsection (g) of section 5102 of the insurance law is amended to read as follows:

(g) "Insurer" means the insurance company or self-insurer, as the case may be, which provides the financial security required by article six ~~[ex]~~, eight, or forty-four-B of the vehicle and traffic law.

§ 7. Subsection (b) of section 5103 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) Is injured while a motor vehicle is being used or operated by a TNC driver pursuant to article forty-four-B of the vehicle and traffic law, provided, however, that an insurer may not include this exclusion in a policy used to satisfy the requirements under article forty-four-B of the vehicle and traffic law.

§ 8. Subsection (d) of section 5106 of the insurance law, as added by chapter 452 of the laws of 2005, is amended to read as follows:

(d) ~~[where]~~ (1) Except as provided in paragraph two of this subsection, where there is reasonable belief more than one insurer would be the source of first party benefits, the insurers may agree among themselves, if there is a valid basis therefor, that one of them will accept and pay the claim initially. If there is no such agreement, then the first insurer to whom notice of claim is given shall be responsible for payment. Any such dispute shall be resolved in accordance with the arbitration procedures established pursuant to section five thousand one hundred five of this article and ~~[regulation]~~ regulations as promulgated by the superintendent, and any insurer paying first-party benefits shall be reimbursed by other insurers for their proportionate share of the

costs of the claim and the allocated expenses of processing the claim, in accordance with the provisions entitled "other coverage" contained in regulation and the provisions entitled "other sources of first-party benefits" contained in regulation. If there is no such insurer and the motor vehicle accident occurs in this state, then an applicant who is a qualified person as defined in article fifty-two of this chapter shall institute the claim against the motor vehicle accident indemnification corporation.

(2) A group policy issued pursuant to section three thousand four hundred fifty-five of this chapter, to satisfy the requirements of section sixteen hundred ninety-three of the vehicle and traffic law, shall provide first party benefits when a dispute exists as to whether a driver was using or operating a motor vehicle in connection with a transportation network company when loss, damage, injury, or death occurs. A transportation network company shall notify the insurer that issued the owner's policy of liability insurance of the dispute within ten business days of becoming aware that the dispute exists. When there is a dispute, the group insurer liable for the payment of first party benefits under a group policy, to satisfy the requirements of section sixteen hundred ninety-three of the vehicle and traffic law, shall have the right to recover the amount paid from the driver's insurer to the extent that such insurer would have been liable to pay damages in an action at law.

§ 9. Subsection (b) of section 2305 of the insurance law, as amended by chapter 11 of the laws of 2008, paragraph 13 as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(b) rate filings for:

- (1) workers' compensation insurance;
- (2) motor vehicle insurance, or surety bonds, required by section three hundred seventy of the vehicle and traffic law or article forty-four-B of the vehicle and traffic law;
- (3) joint underwriting;
- (4) motor vehicle assigned risk insurance;
- (5) insurance issued by the New York Property Insurance Underwriting Association;
- (6) risk sharing plans authorized by section two thousand three hundred eighteen of this article;
- (7) title insurance;
- (8) medical malpractice liability insurance;
- (9) insurance issued by the Medical Malpractice Insurance Association;
- (10) mortgage guaranty insurance;
- (11) credit property insurance, as defined in section two thousand three hundred forty of this article; ~~and~~
- (12) gap insurance; and
- (13) ~~[Private]~~ private passenger automobile insurance, except as provided in section two thousand three hundred fifty of this article~~[+]~~, shall be filed with the superintendent and shall not become effective unless either the filing has been approved or thirty days, which the superintendent may with cause extend an additional thirty days and with further cause extend an additional fifteen days, have elapsed and the filing has not been disapproved as failing to meet the requirements of this article, including the standard that rates be not otherwise unreasonable. After a rate filing becomes effective, the filing and supporting information shall be open to public inspection. If a filing is disapproved, then notice of such disapproval order shall be given, specifying in what respects such filing fails to meet the requirements of

1 this article. Upon his or her request, the superintendent shall be  
2 provided with support and assistance from the workers' compensation  
3 board and other state agencies and departments with appropriate juris-  
4 diction. The loss cost multiplier for each insurer providing coverage  
5 for workers' compensation, as defined by regulation promulgated by the  
6 superintendent, shall be promptly displayed on the department's website  
7 and updated in the event of any change.

8 § 10. Paragraph 1 of subsection (a) of section 3425 of the insurance  
9 law, as amended by chapter 235 of the laws of 1989, is amended to read  
10 as follows:

11 (1) "Covered policy" means a contract of insurance, referred to in  
12 this section as "automobile insurance", issued or issued for delivery in  
13 this state, on a risk located or resident in this state, insuring  
14 against losses or liabilities arising out of the ownership, operation,  
15 or use of a motor vehicle, predominantly used for non-business purposes,  
16 when a natural person is the named insured under the policy of automo-  
17 bile insurance; provided, however, that the use or operation of the  
18 motor vehicle by a transportation network driver as a TNC vehicle in  
19 accordance with article forty-four-B of the vehicle and traffic law  
20 shall not be included in determining whether the motor vehicle is being  
21 used predominantly for non-business purposes.

22 § 11. The executive law is amended by adding a new article 6-H to read  
23 as follows:

#### 24 ARTICLE 6-H

#### 25 TRANSPORTATION NETWORK COMPANY DRIVER'S

#### 26 INJURY COMPENSATION FUND

#### 27 Section 160-aaaa. Definitions.

28 160-bbbb. Transportation network company driver's injury compen-  
29 sation fund, Inc.

30 160-cccc. Supervision of transportation network companies.

31 160-dddd. Management of the fund.

32 160-eeee. Plan of operation.

33 160-ffff. Membership.

34 160-gggg. Securing of compensation.

35 160-hhhh. Assessment of fund members.

36 160-iiii. Certified financial statements.

37 160-jjjj. Exemption from taxes.

38 160-kkkk. Liability insurance.

39 160-llll. Regulations.

40 160-mmmm. Violations.

41 § 160-aaaa. Definitions. As used in this article:

42 1. "Transportation network company driver" or "TNC driver" means an  
43 individual who:

44 (a) receives connections to potential passengers and related services  
45 from a transportation network company in exchange for payment of a fee  
46 to the transportation network company;

47 (b) uses a TNC vehicle to offer or provide a TNC prearranged trip to  
48 transportation network company passengers upon connection through a  
49 digital network controlled by a transportation network company in  
50 exchange for compensation or payment of a fee; and

51 (c) whose injury arose out of and in the course of providing a TNC  
52 prearranged trip through a digital network operated by a transportation  
53 network company that is a registered member of the New York transporta-  
54 tion network company driver's injury compensation fund, Inc.

55 2. "Transportation network company passenger" or "passenger" means a  
56 person or persons who use a transportation network company's digital



1 network to connect with a transportation network company driver who  
2 provides TNC prearranged trips to the passenger in the TNC vehicle  
3 between points chosen by the passenger.

4 3. "Board" means the workers' compensation board.

5 4. "Digital network" means any system or service offered or utilized  
6 by a transportation network company that enables TNC prearranged trips  
7 with transportation network company drivers.

8 5. "Transportation network company" means a person, corporation, part-  
9 nership, sole proprietorship, or other entity that is licensed pursuant  
10 to article forty-four-B of the vehicle and traffic law and is operating  
11 in New York state exclusively using a digital network to connect trans-  
12 portation network company passengers to transportation network company  
13 drivers who provide TNC prearranged trips.

14 6. "Transportation network company vehicle" or "TNC vehicle" means a  
15 vehicle that is:

16 (a) used by a transportation network company driver to provide a TNC  
17 prearranged trip originating in the state of New York;

18 (b) owned, leased or otherwise authorized for use by the transporta-  
19 tion network company driver and shall not include:

20 (i) a taxicab, as defined in section one hundred forty-eight-a of the  
21 vehicle and traffic law and section 19-502 of the administrative code of  
22 the city of New York, or as otherwise defined in local law;

23 (ii) a livery vehicle, as defined in section one hundred twenty-one-e  
24 of the vehicle and traffic law, or as otherwise defined in local law;

25 (iii) a black car, limousine, or luxury limousine, as defined in  
26 section 19-502 of the administrative code of the city of New York, or as  
27 otherwise defined in local law;

28 (iv) a for-hire vehicle, as defined in section 19-502 of the adminis-  
29 trative code of the city of New York, or as otherwise defined in local  
30 law;

31 (v) a bus, as defined in section one hundred four of the vehicle and  
32 traffic law;

33 (vi) any motor vehicle weighing more than six thousand five hundred  
34 pounds unloaded;

35 (vii) any motor vehicle having a seating capacity of more than seven  
36 passengers; and

37 (viii) any motor vehicle subject to section three hundred seventy of  
38 the vehicle and traffic law.

39 7. (a) "TNC prearranged trip" means the provision of transportation by  
40 a transportation network company driver to a passenger provided through  
41 the use of a TNC's digital network:

42 (i) beginning when a transportation network company driver accepts a  
43 passenger's request for a trip through a digital network controlled by a  
44 transportation network company;

45 (ii) continuing while the transportation network company driver trans-  
46 ports the requesting passenger in a TNC vehicle; and

47 (iii) ending when the last requesting passenger departs from the TNC  
48 vehicle.

49 (b) The term "TNC prearranged trip" does not include transportation  
50 provided through any of the following:

51 (i) shared expense carpool or vanpool arrangements, including those as  
52 defined in section one hundred fifty-eight-b of the vehicle and traffic  
53 law;

54 (ii) use of a taxicab, livery, luxury limousine, or other for-hire  
55 vehicle, as defined in the vehicle and traffic law, section 19-502 of

1 the administrative code of the city of New York, or as otherwise defined  
2 in local law; or

3 (iii) a regional transportation provider.

4 8. "Covered services" means, with respect to TNC prearranged trips  
5 using a digital network of a transportation network company located in  
6 the state, all such TNC prearranged trips regardless of where the pick-  
7 up or discharge occurs, and, with respect to TNC prearranged trips using  
8 a digital network of a transportation network company located outside  
9 the state, all prearranged trips involving a pick-up in the state,  
10 regardless of where the discharge occurs.

11 9. "Department" means the department of state.

12 10. "Fund" means the New York transportation network company driver's  
13 fund, Inc.

14 11. "Fund liability date" means the earlier of:

15 (a) The date as of which the board first approves the fund's applica-  
16 tion to self-insure pursuant to section one hundred sixty-gggg of this  
17 article; or

18 (b) The date on which coverage commences under the initial insurance  
19 policy purchased by the fund pursuant to section one hundred sixty-gggg  
20 of this article.

21 12. "Secretary" means the secretary of state.

22 § 160-bbbb. Transportation network company driver's injury compen-  
23 sation fund, Inc. There is hereby created a not-for-profit corporation  
24 to be known as the New York transportation network company driver's  
25 injury compensation fund, Inc. To the extent that the provisions of the  
26 not-for-profit corporation law do not conflict with the provisions of  
27 this article, or with the plan of operation established pursuant to this  
28 article, the not-for-profit corporation law shall apply to the fund,  
29 which shall be a type C corporation pursuant to such law. If an applica-  
30 ble provision of this article or of the fund's plan of operation relates  
31 to a matter embraced in a provision of the not-for-profit corporation  
32 law but is not in conflict therewith, both provisions shall apply. The  
33 fund shall perform its functions in accordance with its plan of opera-  
34 tion established and approved pursuant to section one hundred sixty-eeee  
35 of this article and shall exercise its powers through a board of direc-  
36 tors established pursuant to this article.

37 § 160-cccc. Supervision of transportation network companies. A trans-  
38 portation network company shall, with respect to the provisions of this  
39 article, be subject to the supervision and oversight of the department  
40 as provided in this article.

41 § 160-dddd. Management of the fund. 1. Within thirty (30) days of the  
42 effective date of this article, there shall be appointed a board of  
43 directors of the fund. The board of directors of the fund shall consist  
44 of nine directors appointed by the governor, one of whom shall be chosen  
45 by the governor; one of whom shall be chosen upon nomination of the  
46 temporary president of the senate; one of whom shall be chosen upon  
47 nomination of the speaker of the assembly; one of whom shall be chosen  
48 upon nomination of the american federation of labor-congress of indus-  
49 trial organizations of New York; and five of whom shall be chosen upon  
50 nomination of transportation network company members of the fund.

51 2. The directors shall elect annually from among their number a chair.

52 3. For their attendance at meetings, the directors of the fund shall  
53 be entitled to compensation, as authorized by the directors, in an  
54 amount not to exceed five hundred dollars per meeting per director and  
55 to reimbursement of their actual and necessary expenses.

1 4. Directors of the fund, except as otherwise provided by law, may  
2 engage in private or public employment or in a profession or business.

3 5. (a) All of the directors shall have equal voting rights and five or  
4 more directors shall constitute a quorum. The affirmative vote of four  
5 directors shall be necessary for the transaction of any business or the  
6 exercise of any power or function of the fund.

7 (b) The fund may delegate to one or more of its directors, officers,  
8 agents, or employees such powers and duties as it may deem proper.

9 (c) A vacancy occurring in a director position shall be filled in the  
10 same manner as the initial appointment to that position, provided howev-  
11 er that no individual may serve as director for more than three succes-  
12 sive terms.

13 § 160-eeee. Plan of operation. 1. Within seventy-five days of the  
14 effective date of this article, the fund shall file with the department  
15 its plan of operation, which shall be designed to assure the fair,  
16 reasonable and equitable administration of the fund. The plan of opera-  
17 tion and any subsequent amendments thereto shall become effective upon  
18 being filed with the department.

19 2. The plan of operation shall constitute the by-laws of the fund and  
20 shall, in addition to the requirements enumerated elsewhere in this  
21 article:

22 (a) establish procedures for collecting and managing the assets of the  
23 fund;

24 (b) establish regular places and times for meetings of the fund's  
25 board of directors;

26 (c) establish the procedure by which the fund shall determine whether  
27 to provide the benefits due pursuant to this article by self-insuring or  
28 by purchasing insurance;

29 (d) establish accounting and record-keeping procedures for all finan-  
30 cial transactions of the fund, its agents, and the board of directors;

31 (e) establish a procedure for determining and collecting the appropri-  
32 ate amount of surcharges and assessments under this article;

33 (f) set forth the procedures by which the fund may exercise the audit  
34 rights granted to it under this article;

35 (g) establish procedures to ensure prompt and accurate notification to  
36 the fund by its members of all accidents and injuries to transportation  
37 network company drivers, and provide for full reimbursement of the fund  
38 by any transportation network company whose failure to provide such  
39 notification results in the imposition of a penalty on the fund by the  
40 board; and

41 (h) contain such additional provisions as the board of the fund may  
42 deem necessary or proper for the execution of the powers and duties of  
43 the fund.

44 § 160-ffff. Membership. 1. The membership of the fund shall be  
45 composed of all transportation network companies. Each transportation  
46 network company shall be required, as a condition of doing business  
47 within this state, to pay the department a ten thousand dollar annual  
48 fee for the purpose of registering as a member of the fund and receiving  
49 a certificate of registration. Such sums shall be used by the depart-  
50 ment for the administration of this article. The initial registration  
51 fee shall be due no later than ninety days after the effective date of  
52 this article. The department shall have the power to assess an addi-  
53 tional fee against each registrant in the amount necessary to provide it  
54 with sufficient funds to cover its expenses in performing its duties  
55 pursuant to this article. The department shall provide the fund with an  
56 updated list of registrants on a monthly basis.

1 2. All transportation network companies shall be required, as a condi-  
2 tion of obtaining or retaining their license from the department of  
3 motor vehicles pursuant to article forty-four-B of the vehicle and traf-  
4 fic law, to:

5 (a) be members of the fund;  
6 (b) be registered with the department as members of the fund; and  
7 (c) submit to the department of motor vehicles a copy of its certifi-  
8 cate of registration as proof of such membership and registration.

9 3. Within sixty days of the effective date of this article, the board  
10 of the fund shall, on the basis of information from trade papers and  
11 other sources, identify the transportation network companies subject to  
12 this article and, on a regular and ongoing basis, confirm that all such  
13 entities have registered in accordance with subdivision one of this  
14 section.

15 4. The fund shall, within seventy-five days of the effective date of  
16 this article, provide to its members a copy of the proposed plan of  
17 operation filed with the department and shall inform its members of  
18 their rights and duties pursuant to this article.

19 § 160-gggg. Securing of compensation. 1. Within two hundred ten days  
20 of the effective date of this article, the fund shall secure the payment  
21 of workers' compensation to all: transportation network company drivers  
22 entitled thereto pursuant to this chapter by either:

23 (a) self-insuring in accordance with subdivision three of section  
24 fifty of the workers' compensation law and the rules promulgated by the  
25 board pursuant to such section; or

26 (b) purchasing workers' compensation insurance covering, on a blanket  
27 basis, all drivers who are the fund's employees pursuant to section two  
28 of the workers' compensation law.

29 2. If the fund initially seeks to apply to the board for authorization  
30 to self-insure pursuant to subdivision three of section fifty of the  
31 workers' compensation law, it shall submit its application and accompa-  
32 nying proof to the board within one hundred fifty days of the effective  
33 date of this article. The board shall notify the fund and the secretary  
34 in writing of any change in the fund's status as a self-insurer or of  
35 any additional requirements that the board may deem necessary for  
36 continuation of such status.

37 3. If the fund chooses to secure the payment of workers' compensation  
38 pursuant to the workers' compensation law by purchasing an insurance  
39 policy from the state insurance fund or a licensed insurer, it shall  
40 file with the department no later than thirty days after the commence-  
41 ment of a new policy year a copy of the policy it has purchased. In such  
42 case, the department shall be treated by the insurer as a certificate  
43 holder for purposes of receiving notice of cancellation of the policy.

44 4. No provision of this article shall be construed to alter or affect  
45 the liability under the workers' compensation law of any transportation  
46 network company with respect to transportation network company drivers  
47 prior to the fund liability date.

48 § 160-hhhh. Assessment of fund members. 1. To pay:

49 (a) the costs of the insurance purchased pursuant to section one  
50 hundred sixty-gggg of this article; or

51 (b) the benefits due under the workers' compensation law in the event  
52 the fund self-insures pursuant to section one hundred sixty-gggg of this  
53 article; and to pay

54 (c) its expenses in carrying out its powers and duties under this  
55 article; and

1 (d) its liabilities, if any, pursuant to section fourteen-A of the  
2 workers' compensation law; the fund shall ascertain by reasonable esti-  
3 mate the total funding necessary to carry on its operations.

4 2. Based upon its estimation of operating costs, the fund shall estab-  
5 lish a proposed uniform percentage surcharge to be added to:

6 (a) the invoices or billings for covered services sent to transporta-  
7 tion network company passengers by a member or its agent; and

8 (b) The credit payments for covered services received by a member or  
9 its agent. The proposed surcharge shall become effective thirty days  
10 after being filed with the department.

11 Notwithstanding the foregoing, beginning on the first day of the first  
12 calendar month that shall commence at least seventy-five days after the  
13 effective date of this article, and until the fund shall have filed with  
14 the department a different surcharge amount, a two percent surcharge  
15 shall be added to every invoice or billing for covered services sent by  
16 a member or its agent to, and every credit payment for covered services  
17 received by a member or its agent from, transportation network company  
18 passengers. Each member of the fund shall be liable for payment to the  
19 fund of an amount equal to the product of:

20 (a) the percentages surcharge due pursuant to this article, divided by  
21 one hundred; and

22 (b) all payments received by the member or its agent for covered  
23 services prearranged through the member's digital network, as provided  
24 in this subdivision, regardless of whether the surcharge was billed or  
25 charged.

26 3. The department of motor vehicles or the department shall not issue,  
27 continue or renew any license or registration certificate for the opera-  
28 tion of any transportation network company unless such transportation  
29 network company, as a condition of maintaining its license and/or regis-  
30 tration certificate, adds the surcharge required by this section to  
31 every invoice and billing for covered services sent to, and every credit  
32 payment for covered services received from, its transportation network  
33 company passengers and pays to the fund no later than the fifteenth day  
34 of each month the total surcharges due pursuant to this article.

35 4. Each transportation network company shall submit to the fund with  
36 its monthly payment a detailed accounting of the charge and surcharge  
37 amounts charged to and received from transportation network company  
38 passengers for covered services during the previous month. The first  
39 such payment and accounting shall be due on the fifteenth day of the  
40 month following the imposition of the surcharge pursuant to subdivision  
41 two of this section.

42 5. Should the fund determine that the surcharge amounts that have been  
43 paid to it are inadequate to meet its obligations under this article, it  
44 shall determine the surcharge rate required to eliminate such deficiency  
45 and shall file such revised surcharge rate with the department in  
46 accordance with subdivision two of this section. Commencing thirty days  
47 after such filing, the members of the fund shall charge the revised  
48 surcharge rate and shall pay to the fund the total amount of surcharges  
49 in accordance with this article.

50 6. For the purposes of conducting payroll audits, an insurer providing  
51 coverage to the fund pursuant to this article may treat the members of  
52 the fund as policyholders. Members of the fund shall be required to do  
53 all things required of employers pursuant to section one hundred thir-  
54 ty-one of the workers' compensation law, and shall be required to  
55 provide the board access to any and all records and information as  
56 otherwise required by the workers' compensation law and the regulations



1 promulgated thereunder, and shall be liable as provided in the workers'  
2 compensation law for any failure so to do.

3 § 160-iiii. Certified financial statements. No later than May first of  
4 each year, the fund shall submit to the governor and legislature certi-  
5 fied financial statements prepared in accordance with generally accepted  
6 accounting principles by a certified public accountant. The members of  
7 the fund shall be required on and after January first of each year to  
8 afford the certified public accountant convenient access at all reason-  
9 able hours to all books, records, and other documents, including but not  
10 limited to invoices and vouchers, necessary or useful in the preparation  
11 of such statements and in the verification of the monthly statements  
12 submitted to the fund.

13 § 160-jjjj. Exemption from taxes. The fund shall be exempt from  
14 payment of all fees and taxes levied by this state or any of its subdi-  
15 visions, except taxes levied on real property.

16 § 160-kkkk. Liability insurance. The fund shall purchase such insur-  
17 ance as is necessary to protect the fund and any director, officer,  
18 agent, or other representative from liability for their administration  
19 of the fund, and shall, to the extent permitted by law, indemnify such  
20 directors, officers, agents, or other representatives and hold them  
21 harmless from liability for their administration of the fund.

22 § 160-llll. Regulations. The department shall adopt regulations imple-  
23 menting the provisions of this article, including the conduct and notice  
24 of hearings held pursuant to section one hundred sixty-mmmmm of this  
25 article.

26 § 160-mmmmm. Violations. 1. If the secretary believes a violation of  
27 this article by a fund member may have occurred, upon notice to the fund  
28 member, a hearing shall be held by the secretary to determine whether  
29 such violation occurred.

30 2. Except as otherwise provided in this section, a fund member that is  
31 found, after a hearing held pursuant to subdivision one of this section,  
32 to have violated a provision of this article, or a rule promulgated by  
33 the department pursuant to this article, shall be liable for a fine in  
34 an amount not to exceed ten thousand dollars per violation.

35 3. Within twenty days after issuance of a determination adverse to a  
36 transportation network company following a hearing held pursuant to  
37 subdivision one of this section, an appeal may be taken therefrom to the  
38 appellate division of the supreme court, third department, by the  
39 aggrieved transportation network company.

40 § 12. Subdivision 1 of section 171-a of the tax law, as amended by  
41 chapter 90 of the laws of 2014, is amended to read as follows:

42 1. All taxes, interest, penalties and fees collected or received by  
43 the commissioner or the commissioner's duly authorized agent under arti-  
44 cles nine (except section one hundred eighty-two-a thereof and except as  
45 otherwise provided in section two hundred five thereof), nine-A,  
46 twelve-A (except as otherwise provided in section two hundred eighty-  
47 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
48 section three hundred twelve thereof), eighteen, nineteen, twenty  
49 (except as otherwise provided in section four hundred eighty-two there-  
50 of), twenty-B, twenty-one, twenty-two, twenty-six, [~~twenty-six-B,~~] twen-  
51 ty-eight (except as otherwise provided in section eleven hundred two or  
52 eleven hundred three thereof), twenty-eight-A, twenty-nine-B (except as  
53 otherwise provided in section twelve hundred ninety-eight thereof),  
54 thirty-one (except as otherwise provided in section fourteen hundred  
55 twenty-one thereof), thirty-three and thirty-three-A of this chapter  
56 shall be deposited daily in one account with such responsible banks,

1 banking houses or trust companies as may be designated by the comp-  
2 troller, to the credit of the comptroller. Such an account may be estab-  
3 lished in one or more of such depositories. Such deposits shall be kept  
4 separate and apart from all other money in the possession of the comp-  
5 troller. The comptroller shall require adequate security from all such  
6 depositories. Of the total revenue collected or received under such  
7 articles of this chapter, the comptroller shall retain in the comp-  
8 troller's hands such amount as the commissioner may determine to be  
9 necessary for refunds or reimbursements under such articles of this  
10 chapter out of which amount the comptroller shall pay any refunds or  
11 reimbursements to which taxpayers shall be entitled under the provisions  
12 of such articles of this chapter. The commissioner and the comptroller  
13 shall maintain a system of accounts showing the amount of revenue  
14 collected or received from each of the taxes imposed by such articles.  
15 The comptroller, after reserving the amount to pay such refunds or  
16 reimbursements, shall, on or before the tenth day of each month, pay  
17 into the state treasury to the credit of the general fund all revenue  
18 deposited under this section during the preceding calendar month and  
19 remaining to the comptroller's credit on the last day of such preceding  
20 month, (i) except that the comptroller shall pay to the state department  
21 of social services that amount of overpayments of tax imposed by article  
22 twenty-two of this chapter and the interest on such amount which is  
23 certified to the comptroller by the commissioner as the amount to be  
24 credited against past-due support pursuant to subdivision six of section  
25 one hundred seventy-one-c of this article, (ii) and except that the  
26 comptroller shall pay to the New York state higher education services  
27 corporation and the state university of New York or the city university  
28 of New York respectively that amount of overpayments of tax imposed by  
29 article twenty-two of this chapter and the interest on such amount which  
30 is certified to the comptroller by the commissioner as the amount to be  
31 credited against the amount of defaults in repayment of guaranteed  
32 student loans and state university loans or city university loans pursu-  
33 ant to subdivision five of section one hundred seventy-one-d and subdivi-  
34 sion six of section one hundred seventy-one-e of this article, (iii)  
35 and except further that, notwithstanding any law, the comptroller shall  
36 credit to the revenue arrearage account, pursuant to section  
37 ninety-one-a of the state finance law, that amount of overpayment of tax  
38 imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B  
39 or thirty-three of this chapter, and any interest thereon, which is  
40 certified to the comptroller by the commissioner as the amount to be  
41 credited against a past-due legally enforceable debt owed to a state  
42 agency pursuant to paragraph (a) of subdivision six of section one  
43 hundred seventy-one-f of this article, provided, however, he shall cred-  
44 it to the special offset fiduciary account, pursuant to section ninety-  
45 one-c of the state finance law, any such amount creditable as a liabil-  
46 ity as set forth in paragraph (b) of subdivision six of section one  
47 hundred seventy-one-f of this article, (iv) and except further that the  
48 comptroller shall pay to the city of New York that amount of overpayment  
49 of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A,  
50 thirty-B or thirty-three of this chapter and any interest thereon that  
51 is certified to the comptroller by the commissioner as the amount to be  
52 credited against city of New York tax warrant judgment debt pursuant to  
53 section one hundred seventy-one-l of this article, (v) and except  
54 further that the comptroller shall pay to a non-obligated spouse that  
55 amount of overpayment of tax imposed by article twenty-two of this chap-  
56 ter and the interest on such amount which has been credited pursuant to

1 section one hundred seventy-one-c, one hundred seventy-one-d, one  
2 hundred seventy-one-e, one hundred seventy-one-f or one hundred seven-  
3 ty-one-l of this article and which is certified to the comptroller by  
4 the commissioner as the amount due such non-obligated spouse pursuant to  
5 paragraph six of subsection (b) of section six hundred fifty-one of this  
6 chapter; and (vi) the comptroller shall deduct a like amount which the  
7 comptroller shall pay into the treasury to the credit of the general  
8 fund from amounts subsequently payable to the department of social  
9 services, the state university of New York, the city university of New  
10 York, or the higher education services corporation, or the revenue  
11 arrearage account or special offset fiduciary account pursuant to  
12 section ninety-one-a or ninety-one-c of the state finance law, as the  
13 case may be, whichever had been credited the amount originally withheld  
14 from such overpayment, and (vii) with respect to amounts originally  
15 withheld from such overpayment pursuant to section one hundred seventy-  
16 one-l of this article and paid to the city of New York, the comptroller  
17 shall collect a like amount from the city of New York.

18 § 13. Subdivision 1 of section 171-a of the tax law, as amended by  
19 section 54 of part A of chapter 59 of the laws of 2014, is amended to  
20 read as follows:

21 1. All taxes, interest, penalties and fees collected or received by  
22 the commissioner or the commissioner's duly authorized agent under arti-  
23 cles nine (except section one hundred eighty-two-a thereof and except as  
24 otherwise provided in section two hundred five thereof), nine-A,  
25 twelve-A (except as otherwise provided in section two hundred eighty-  
26 four-d thereof), thirteen, thirteen-A (except as otherwise provided in  
27 section three hundred twelve thereof), eighteen, nineteen, twenty  
28 (except as otherwise provided in section four hundred eighty-two there-  
29 of), twenty-one, twenty-two, twenty-six, [~~twenty-six-B,~~ twenty-eight  
30 (except as otherwise provided in section eleven hundred two or eleven  
31 hundred three thereof), twenty-eight-A, twenty-nine-B (except as other-  
32 wise provided in section twelve hundred ninety-eight thereof), thirty-  
33 one (except as otherwise provided in section fourteen hundred twenty-one  
34 thereof), thirty-three and thirty-three-A of this chapter shall be  
35 deposited daily in one account with such responsible banks, banking  
36 houses or trust companies as may be designated by the comptroller, to  
37 the credit of the comptroller. Such an account may be established in one  
38 or more of such depositories. Such deposits shall be kept separate and  
39 apart from all other money in the possession of the comptroller. The  
40 comptroller shall require adequate security from all such depositories.  
41 Of the total revenue collected or received under such articles of this  
42 chapter, the comptroller shall retain in the comptroller's hands such  
43 amount as the commissioner may determine to be necessary for refunds or  
44 reimbursements under such articles of this chapter out of which amount  
45 the comptroller shall pay any refunds or reimbursements to which taxpay-  
46 ers shall be entitled under the provisions of such articles of this  
47 chapter. The commissioner and the comptroller shall maintain a system of  
48 accounts showing the amount of revenue collected or received from each  
49 of the taxes imposed by such articles. The comptroller, after reserving  
50 the amount to pay such refunds or reimbursements, shall, on or before  
51 the tenth day of each month, pay into the state treasury to the credit  
52 of the general fund all revenue deposited under this section during the  
53 preceding calendar month and remaining to the comptroller's credit on  
54 the last day of such preceding month, (i) except that the comptroller  
55 shall pay to the state department of social services that amount of  
56 overpayments of tax imposed by article twenty-two of this chapter and

1 the interest on such amount which is certified to the comptroller by the  
2 commissioner as the amount to be credited against past-due support  
3 pursuant to subdivision six of section one hundred seventy-one-c of this  
4 article, (ii) and except that the comptroller shall pay to the New York  
5 state higher education services corporation and the state university of  
6 New York or the city university of New York respectively that amount of  
7 overpayments of tax imposed by article twenty-two of this chapter and  
8 the interest on such amount which is certified to the comptroller by the  
9 commissioner as the amount to be credited against the amount of defaults  
10 in repayment of guaranteed student loans and state university loans or  
11 city university loans pursuant to subdivision five of section one  
12 hundred seventy-one-d and subdivision six of section one hundred seven-  
13 ty-one-e of this article, (iii) and except further that, notwithstanding  
14 any law, the comptroller shall credit to the revenue arrearage account,  
15 pursuant to section ninety-one-a of the state finance law, that amount  
16 of overpayment of tax imposed by article nine, nine-A, twenty-two, thir-  
17 ty, thirty-A, thirty-B or thirty-three of this chapter, and any interest  
18 thereon, which is certified to the comptroller by the commissioner as  
19 the amount to be credited against a past-due legally enforceable debt  
20 owed to a state agency pursuant to paragraph (a) of subdivision six of  
21 section one hundred seventy-one-f of this article, provided, however, he  
22 shall credit to the special offset fiduciary account, pursuant to  
23 section ninety-one-c of the state finance law, any such amount credita-  
24 ble as a liability as set forth in paragraph (b) of subdivision six of  
25 section one hundred seventy-one-f of this article, (iv) and except  
26 further that the comptroller shall pay to the city of New York that  
27 amount of overpayment of tax imposed by article nine, nine-A, twenty-  
28 two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any  
29 interest thereon that is certified to the comptroller by the commission-  
30 er as the amount to be credited against city of New York tax warrant  
31 judgment debt pursuant to section one hundred seventy-one-l of this  
32 article, (v) and except further that the comptroller shall pay to a  
33 non-obligated spouse that amount of overpayment of tax imposed by arti-  
34 cle twenty-two of this chapter and the interest on such amount which has  
35 been credited pursuant to section one hundred seventy-one-c, one hundred  
36 seventy-one-d, one hundred seventy-one-e, one hundred seventy-one-f or  
37 one hundred seventy-one-l of this article and which is certified to the  
38 comptroller by the commissioner as the amount due such non-obligated  
39 spouse pursuant to paragraph six of subsection (b) of section six  
40 hundred fifty-one of this chapter; and (vi) the comptroller shall deduct  
41 a like amount which the comptroller shall pay into the treasury to the  
42 credit of the general fund from amounts subsequently payable to the  
43 department of social services, the state university of New York, the  
44 city university of New York, or the higher education services corpo-  
45 ration, or the revenue arrearage account or special offset fiduciary  
46 account pursuant to section ninety-one-a or ninety-one-c of the state  
47 finance law, as the case may be, whichever had been credited the amount  
48 originally withheld from such overpayment, and (vii) with respect to  
49 amounts originally withheld from such overpayment pursuant to section  
50 one hundred seventy-one-l of this article and paid to the city of New  
51 York, the comptroller shall collect a like amount from the city of New  
52 York.

53 § 14. Paragraph 34 of subdivision (b) of section 1101 of the tax law,  
54 as amended by section 1 of part WW of chapter 57 of the laws of 2010, is  
55 amended to read as follows:

(34) Transportation service. The service of transporting, carrying or conveying a person or persons by livery service; whether to a single destination or to multiple destinations; and whether the compensation paid by or on behalf of the passenger is based on mileage, trip, time consumed or any other basis. A service that begins and ends in this state is deemed intra-state even if it passes outside this state during a portion of the trip. However, transportation service does not include transportation of persons in connection with funerals. Transportation service includes transporting, carrying, or conveying property of the person being transported, whether owned by or in the care of such person. Notwithstanding the foregoing, transportation service shall not include a TNC prearranged trip, as that term is defined in article forty-four-B of the vehicle and traffic law, that is subject to tax under article twenty-nine-B of this chapter. In addition to what is included in the definition of "receipt" in paragraph three of this subdivision, receipts from the sale of transportation service subject to tax include any handling, carrying, baggage, booking service, administrative, mark-up, additional, or other charge, of any nature, made in conjunction with the transportation service. Livery service means service provided by limousine, black car or other motor vehicle, with a driver, but excluding (i) a taxicab, (ii) a bus, and (iii), in a city of one million or more in this state, an affiliated livery vehicle, and excluding any scheduled public service. Limousine means a vehicle with a seating capacity of up to fourteen persons, excluding the driver. Black car means a for-hire vehicle dispatched from a central facility. "Affiliated livery vehicle" means a for-hire motor vehicle with a seating capacity of up to six persons, including the driver, other than a black car or luxury limousine, that is authorized and licensed by the taxi and limousine commission of a city of one million or more to be dispatched by a base station located in such a city and regulated by such taxi and limousine commission; and the charges for service provided by an affiliated livery vehicle are on the basis of flat rate, time, mileage, or zones and not on a garage to garage basis.

§ 15. The tax law is amended by adding a new article 29-B to read as follows:

#### ARTICLE 29-B

#### STATE ASSESSMENT FEE ON TRANSPORTATION NETWORK COMPANY

#### PREARRANGED TRIPS

#### Section 1291. Definitions.

#### 1292. Imposition.

#### 1293. Presumption.

#### 1294. Returns and payment of state assessment fee.

#### 1295. Records to be kept.

#### 1296. Secrecy of returns and reports.

#### 1297. Practice and procedure.

#### 1298. Deposit and disposition of revenue.

§ 1291. Definitions. (a) "Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, any combination of individuals and any other form of unincorporated enterprise owned or conducted by two or more persons.

(b) "City" means a city of a million or more located in the metropolitan commuter transportation district established by section twelve hundred sixty-two of the public authorities law.



1 (c) "Transportation network company" or "TNC" shall have the same  
2 meaning as the term is defined in article forty-four-B of the vehicle  
3 and traffic law.

4 (d) "TNC prearranged trip" shall have the same meaning as the term is  
5 defined in article forty-four-B of the vehicle and traffic law.

6 (e) "TNC driver" shall have the same meaning as the term is defined in  
7 article forty-four-B of the vehicle and traffic law.

8 (f) "TNC vehicle" shall have the same meaning as the term is defined  
9 in article forty-four-B of the vehicle and traffic law.

10 (g) "Gross trip fare" means the sum of the base fare charge, distance  
11 charge and time charge for a complete TNC prearranged trip at the rate  
12 published by the TNC by or through which such trip is arranged.

13 § 1292. Imposition. There is hereby imposed on every TNC a state  
14 assessment fee of 5.5% of the gross trip fare of every TNC prearranged  
15 trip provided by such TNC that originates anywhere in the state outside  
16 the city and terminates anywhere in this state.

17 § 1293. Presumption. For the purpose of the proper administration of  
18 this article and to prevent evasion of the state assessment fee imposed  
19 by this article, it shall be presumed that every TNC prearranged trip  
20 that originates anywhere in the state outside the city is subject to the  
21 state assessment fee. This presumption shall prevail until the contrary  
22 is proven by the person liable for the fee.

23 § 1294. Returns and payment of state assessment fee. (a) Every person  
24 liable for the state assessment fee imposed by this article shall file a  
25 return on a calendar-quarterly basis with the commissioner. Each return  
26 shall show the number of TNC prearranged trips in the quarter for which  
27 the return is filed, together with such other information as the commis-  
28 sioner may require. The returns required by this section shall be filed  
29 within thirty days after the end of the quarterly period covered there-  
30 by. If the commissioner deems it necessary in order to ensure the  
31 payment of the state assessment fee imposed by this article, the commis-  
32 sioner may require returns to be made for shorter periods than  
33 prescribed by the foregoing provisions of this section, and upon such  
34 dates as the commissioner may specify. The form of returns shall be  
35 prescribed by the commissioner and shall contain such information as the  
36 commissioner may deem necessary for the proper administration of this  
37 article. The commissioner may require amended returns to be filed within  
38 thirty days after notice and to contain the information specified in the  
39 notice. The commissioner may require that the returns be filed electron-  
40 ically.

41 (b) Every person required to file a return under this article shall,  
42 at the time of filing such return, pay to the commissioner the total of  
43 all state assessment fees on the correct number of trips subject to such  
44 fee under this article. The amount so payable to the commissioner for  
45 the period for which a return is required to be filed shall be due and  
46 payable to the commissioner on the date specified for the filing of the  
47 return for such period, without regard to whether a return is filed or  
48 whether the return that is filed correctly shows the correct number of  
49 trips or the amount of fees due thereon. The commissioner may require  
50 that the fee be paid electronically.

51 § 1295. Records to be kept. Every person liable for the state assess-  
52 ment fee imposed by this article shall keep:

53 (a) records of every TNC prearranged trip subject to the state assess-  
54 ment fee under this article, and of all amounts paid, charged or due  
55 thereon, in such form as the commissioner may require;

1 (b) true and complete copies of any records required to be kept by a  
2 state agency that is authorized to permit or regulate a TNC; and

3 (c) such other records and information as the commissioner may require  
4 to perform his or her duties under this article.

5 § 1296. Secrecy of returns and reports. (a) Except in accordance with  
6 proper judicial order or as otherwise provided by law, it shall be  
7 unlawful for the commissioner, any officer or employee of the depart-  
8 ment, any person engaged or retained by the department on an independent  
9 contract basis, or any person who in any manner may acquire knowledge of  
10 the contents of a return or report filed with the commissioner pursuant  
11 to this article, to divulge or make known in any manner any particulars  
12 set forth or disclosed in any such return or report. The officers  
13 charged with the custody of such returns and reports shall not be  
14 required to produce any of them or evidence of anything contained in  
15 them in any action or proceeding in any court, except on behalf of the  
16 commissioner in an action or proceeding under the provisions of this  
17 chapter or in any other action or proceeding involving the collection of  
18 a state assessment fee due under this article to which the state or the  
19 commissioner is a party or a claimant, or on behalf of any party to any  
20 action, proceeding or hearing under the provisions of this article when  
21 the returns, reports or facts shown thereby are directly involved in  
22 such action, proceeding or hearing, in any of which events the court, or  
23 in the case of a hearing, the division of tax appeals may require the  
24 production of, and may admit into evidence, so much of said returns,  
25 reports or of the facts shown thereby, as are pertinent to the action,  
26 proceeding or hearing and no more. The commissioner or the division of  
27 tax appeals may, nevertheless, publish a copy or a summary of any deci-  
28 sion rendered after a hearing required by this article. Nothing in this  
29 section shall be construed to prohibit the delivery to a person who has  
30 filed a return or report or to such person's duly authorized represen-  
31 tative of a certified copy of any return or report filed in connection  
32 with such person's state assessment fee. Nor shall anything in this  
33 section be construed to prohibit the publication of statistics so clas-  
34 sified as to prevent the identification of particular returns or reports  
35 and the items thereof, or the inspection by the attorney general or  
36 other legal representatives of the state of the return or report of any  
37 person required to pay the state assessment fee who shall bring action  
38 to review the state assessment fee based thereon, or against whom an  
39 action or proceeding under this chapter has been recommended by the  
40 commissioner or the attorney general or has been instituted, or the  
41 inspection of the returns or reports required under this article by the  
42 comptroller or duly designated officer or employee of the state depart-  
43 ment of audit and control, for purposes of the audit of a refund of any  
44 state assessment fee paid by a person required to pay the state assess-  
45 ment fee under this article. Provided, further, nothing in this section  
46 shall be construed to prohibit the disclosure, in such manner as the  
47 commissioner deems appropriate, of the names and other appropriate iden-  
48 tifying information of those persons required to pay state assessment  
49 fee under this article.

50 (b) Notwithstanding the provisions of subdivision (a) of this section,  
51 the commissioner, in his or her discretion, may require or permit any or  
52 all persons liable for any state assessment fee imposed by this article,  
53 to make payment to banks, banking houses or trust companies designated  
54 by the commissioner and to file returns with such banks, banking houses  
55 or trust companies as agents of the commissioner, in lieu of paying any  
56 such state assessment fee directly to the commissioner. However, the

1 commissioner shall designate only such banks, banking houses or trust  
2 companies as are already designated by the comptroller as depositories  
3 pursuant to section twelve hundred eighty-eight of this chapter.

4 (c) Notwithstanding the provisions of subdivision (a) of this section,  
5 the commissioner may permit the secretary of the treasury of the United  
6 States or such secretary's delegate, or the authorized representative of  
7 either such officer, to inspect any return filed under this article, or  
8 may furnish to such officer or such officer's authorized representative  
9 an abstract of any such return or supply such person with information  
10 concerning an item contained in any such return, or disclosed by any  
11 investigation of liability under this article, but such permission shall  
12 be granted or such information furnished only if the laws of the United  
13 States grant substantially similar privileges to the commissioner or  
14 officer of this state charged with the administration of the state  
15 assessment fee imposed by this article, and only if such information is  
16 to be used for purposes of tax administration only; and provided further  
17 the commissioner may furnish to the commissioner of internal revenue or  
18 such commissioner's authorized representative such returns filed under  
19 this article and other tax information, as such commissioner may consid-  
20 er proper, for use in court actions or proceedings under the internal  
21 revenue code, whether civil or criminal, where a written request there-  
22 for has been made to the commissioner by the secretary of the treasury  
23 of the United States or such secretary's delegate, provided the laws of  
24 the United States grant substantially similar powers to the secretary of  
25 the treasury of the United States or his or her delegate. Where the  
26 commissioner has so authorized use of returns and other information in  
27 such actions or proceedings, officers and employees of the department  
28 may testify in such actions or proceedings in respect to such returns or  
29 other information.

30 (d) Returns and reports filed under this article shall be preserved  
31 for three years and thereafter until the commissioner orders them to be  
32 destroyed.

33 (e) (1) Any officer or employee of the state who willfully violates  
34 the provisions of subdivision (a) of this section shall be dismissed  
35 from office and be incapable of holding any public office for a period  
36 of five years thereafter.

37 (2) Cross-reference: For criminal penalties, see article thirty-seven  
38 of this chapter.

39 § 1297. Practice and procedure. The provisions of article twenty-seven  
40 of this chapter shall apply with respect to the administration of and  
41 procedure with respect to the state assessment fee imposed by this arti-  
42 cle in the same manner and with the same force and effect as if the  
43 language of such article twenty-seven had been incorporated in full into  
44 this article and had expressly referred to the state assessment fee  
45 under this article, except to the extent that any such provision is  
46 either inconsistent with a provision of this article or is not relevant  
47 to this article.

48 § 1298. Deposit and disposition of revenue. All taxes, fees, interest  
49 and penalties collected or received by the commissioner under this arti-  
50 cle shall be deposited and disposed of pursuant to the provisions of  
51 section one hundred seventy-one-a of this chapter. From such taxes,  
52 interest and penalties collected or received by the commissioner under  
53 this article, 27.27% shall be deposited to the credit of the local tran-  
54 sit assistance fund established in section eighty-nine-i of the state  
55 finance law for the support of local transit systems, operations or

1 projects other than the metropolitan transportation authority or any  
2 subsidiary or affiliate of the metropolitan transportation authority.

3 § 16. The tax law is amended by adding a new section 1822 to read as  
4 follows:

5 § 1822. Violation of the state assessment fee on transportation  
6 network company prearranged trips. Any willful act or omission by any  
7 person that constitutes a violation of any provision of article twenty-  
8 nine-B of this chapter shall constitute a misdemeanor.

9 § 17. Section 1825 of the tax law, as amended by section 89 of part A  
10 of chapter 59 of the laws of 2014, is amended to read as follows:

11 § 1825. Violation of secrecy provisions of the tax law.--Any person  
12 who violates the provisions of subdivision (b) of section twenty-one,  
13 subdivision one of section two hundred two, subdivision eight of section  
14 two hundred eleven, subdivision (a) of section three hundred fourteen,  
15 subdivision one or two of section four hundred thirty-seven, section  
16 four hundred eighty-seven, subdivision one or two of section five  
17 hundred fourteen, subsection (e) of section six hundred ninety-seven,  
18 subsection (a) of section nine hundred ninety-four, subdivision (a) of  
19 section eleven hundred forty-six, section twelve hundred eighty-seven,  
20 section twelve hundred ninety-six, subdivision (a) of section fourteen  
21 hundred eighteen, subdivision (a) of section fifteen hundred eighteen,  
22 subdivision (a) of section fifteen hundred fifty-five of this chapter,  
23 and subdivision (e) of section 11-1797 of the administrative code of the  
24 city of New York shall be guilty of a misdemeanor.

25 § 18. 1. For purposes of this section, transportation network company  
26 shall mean a transportation network company as defined by article  
27 forty-four-B of the vehicle and traffic law.

28 2. There is hereby established the New York State Transportation  
29 Network Company Accessibility Task Force to analyze and advise on how to  
30 maximize effective and integrated transportation services for persons  
31 with disabilities in the transportation network company market. The New  
32 York State Transportation Network Company Accessibility Task Force shall  
33 consist of eleven members. Two members of the New York State Transporta-  
34 tion Network Company Accessibility Task Force shall be appointed by the  
35 speaker of the assembly. Two members of the New York State Transporta-  
36 tion Network Company Accessibility Task Force shall be appointed by the  
37 temporary president of the senate. Seven members of the New York State  
38 Transportation Network Company Accessibility Task Force shall be  
39 appointed by the governor and shall include, but not be limited to, two  
40 representatives of groups who serve persons with disabilities and two  
41 representatives from a transportation network company. The governor  
42 shall designate two chairpersons to the New York State Transportation  
43 Network Company Accessibility Task Force.

44 3. The New York State Transportation Network Company Accessibility  
45 Task Force shall study the demand responsive transportation marketplace  
46 and shall, in addition to any responsibilities assigned by the governor:

47 (a) conduct a needs assessment concerning the demand for demand respon-  
48 sive accessible transportation; (b) conduct a resource assessment  
49 concerning the availability of accessible demand responsive transporta-  
50 tion services for persons with disabilities; (c) identify opportunities  
51 for, and barriers to, increasing accessible demand responsive transpor-  
52 tation service for persons with mobility disabilities; (d) propose stra-  
53 tegies for increasing accessible demand responsive transportation  
54 service for persons with disabilities; and (e) any other issues deter-  
55 mined important to the task force in establishing a recommendation  
56 pursuant to subdivision five of this section.

4. The New York State Transportation Network Company Accessibility Task Force shall hold public hearings and provide an opportunity for public comment on the activities described in subdivision two of this section.

5. The New York State Transportation Network Company Accessibility Task Force shall complete a report addressing the activities described in subdivision two of this section and make a recommendation, supported by such activities, recommending the amount of accessibility necessary for adequate transportation for disabled passengers in order to utilize such services and present such findings at a public meeting where its members shall accept such report, pursuant to majority vote of the task force, and present such report to the governor, the speaker of the assembly and the temporary president of the senate, and make such report publicly available for review.

6. Upon making the report described in subdivision five of this section, the New York State Transportation Network Company Accessibility Task Force shall be deemed dissolved.

§ 19. The state finance law is amended by adding a new section 89-i to read as follows:

§ 89-i. Local transit assistance fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a fund to be known as the "local transit assistance fund". Moneys in the local transit assistance fund shall be kept separately from and shall not be commingled with any other moneys in the joint or sole custody of the state comptroller or the commissioner of taxation and finance.

2. The comptroller shall establish the following separate and distinct account within the local transit assistance fund: Non-MTA transit assistance account.

3. The local transit assistance fund shall consist of all monies collected therefore or credited or transferred thereto from any other fund, account, or source, including a portion of the revenues derived from article twenty-nine-B of the tax law pursuant to section twelve hundred ninety-eight of the tax law. Any interest received by the comptroller on monies on deposit in the local transit assistance fund shall be retained in and become a part of such fund.

4. Monies in the local transit assistance fund shall, following appropriation by the legislature, be utilized for the support of local transit systems, operations or projects, and shall not be appropriated to the metropolitan transportation authority, its affiliates or its subsidiaries. In the first year that monies are appropriated from this fund, and in any subsequent years as may be required by the director of the budget, such monies shall be disbursed according to a plan developed during the prior fiscal year by the commissioner of transportation and approved by the director of the budget. The first such plan shall be submitted by the commissioner by March thirty-first, two thousand eighteen.

5. All payments of money from the local transit assistance fund shall be made on the audit and warrant of the comptroller.

§ 20. Severability clause. If any provision of this act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

§ 21. Each agency that is designated to perform any function or duty pursuant to this act shall be authorized to establish rules and regu-



lations for the administration and execution of such authority in a manner consistent with the provisions of this act and for the protection of the public, health, safety and welfare of persons within this state.

§ 22. This act shall take effect on the ninetieth day after it shall have become a law; provided that the amendments to subdivision 1 of section 171-a of the tax law made by section twelve of this act shall not affect the expiration of such subdivision and shall expire thereafter, when upon such date the provisions of section thirteen of this act shall take effect.

#### PART H

Section 1. Section 491 of the vehicle and traffic law is amended by adding a new subdivision 3 to read as follows:

3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant is a victim of a crime and the identification card applied for is a replacement for one that was lost or destroyed as a result of the crime.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.

#### PART I

Section 1. Paragraph (i) of subdivision 2 of section 503 of the vehicle and traffic law, as amended by chapter 55 of the laws of 1992, is amended to read as follows:

(i) A non-resident whose driving privileges have been revoked pursuant to sections five hundred ten, eleven hundred ninety-three and eleven hundred ninety-four of this chapter shall, upon application for reinstatement of such driving privileges, pay to the commissioner of motor vehicles a fee of [~~twenty-five~~] one hundred dollars. When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving privileges.

§ 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.

#### PART J

Section 1. Paragraphs 1 and 3 of subdivision (a) of section 2125 of the vehicle and traffic law, as amended by section 1-b of part A of chapter 63 of the laws of 2005, are amended to read as follows:

(1) for filing an application for a certificate of title, [~~fifty~~] seventy-five dollars except where the application relates to a mobile home or a manufactured home as defined in section one hundred twenty-two-c of this chapter, in which case the fee shall be one hundred twenty-five dollars;

(3) for a duplicate certificate of title, [~~twenty~~] forty dollars.

§ 2. Section 2125 of the vehicle and traffic law is amended by adding a new subdivision (h) to read as follows:

(h) Notwithstanding any other provision of law, the increase of twenty-five dollars for the fee assessed for filing an application for a certificate of title and the increase of twenty dollars for the fee

1 assessed for filing an application for duplicate title, collected pursu-  
2 ant to paragraphs one and three of subdivision (a) of this section,  
3 shall be deposited to the credit of the dedicated highway and bridge  
4 trust fund, established pursuant to section eighty-nine-b of the state  
5 finance law.

6 § 3. This act shall take effect immediately; provided that the amend-  
7 ments to paragraph 1 of subdivision (a) of section 2125 of the vehicle  
8 and traffic law made by section one of this act shall not affect the  
9 expiration and reversion of such paragraph and shall be deemed to expire  
10 therewith.

11 PART K

12 Section 1. Subdivision 2 of section 491 of the vehicle and traffic law  
13 is amended by adding a new paragraph (f) to read as follows:

14 (f) In addition to any other fee prescribed in this section, an addi-  
15 tional fee of five dollars shall be charged for any non-driver identifi-  
16 cation card or renewal of such card that is issued pursuant to and bears  
17 a marking reflecting compliance with the Real ID Act of 2005, Public Law  
18 109-13, and regulations promulgated thereunder at 6 CFR 37 et seq. The  
19 fee collected pursuant to this paragraph shall be paid to the commis-  
20 sioner and shall be deposited into the dedicated highway bridge and  
21 trust fund pursuant to section eighty-nine-b of the state finance law.

22 § 2. Subdivision 2 of section 503 of the vehicle and traffic law is  
23 amended by adding a new paragraph (f-2) to read as follows:

24 (f-2) In addition to any other fee prescribed in this section, an  
25 additional fee of five dollars shall be charged for any license, renewal  
26 or amendment of such license that is issued pursuant to and bears a  
27 marking reflecting compliance with the Real ID Act of 2005, Public Law  
28 109-13, and regulations promulgated thereunder at 6 CFR 37 et seq. The  
29 fee collected pursuant to this paragraph shall be paid to the commis-  
30 sioner and shall be deposited into the dedicated highway bridge and  
31 trust fund pursuant to section eighty-nine-b of the state finance law.

32 § 3. This act shall take effect immediately.

33 PART L

34 Section 1. Section 114-a of the vehicle and traffic law, as added by  
35 chapter 163 of the laws of 1973, is amended to read as follows:

36 § 114-a. Drug. The term "drug" when used in this chapter, means and  
37 includes any substance listed in section thirty-three hundred six of the  
38 public health law and any substance or combination of substances that  
39 impair, to any extent, the physical and mental abilities which a driver  
40 is expected to possess in order to operate a vehicle as a reasonable and  
41 prudent driver.

42 § 2. Subparagraph (i) of paragraph (a) of subdivision 4 of section 502  
43 of the vehicle and traffic law, as amended by chapter 97 of the laws of  
44 2016, is amended to read as follows:

45 (i) Upon submission of an application for a driver's license, the  
46 applicant shall be required to take and pass a test, or submit evidence  
47 of passage of a test, with respect to the laws relating to traffic, the  
48 laws relating to driving while ability is impaired and while intoxicat-  
49 ed, under the overpowering influence of "Road Rage", or "Work Zone Safe-  
50 ty" awareness as defined by the commissioner, the law relating to exer-  
51 cising due care to avoid colliding with a parked, stopped or standing  
52 authorized emergency vehicle or hazard vehicle pursuant to section elev-

en hundred forty-four-a of this chapter, the ability to read and comprehend traffic signs and symbols, bicycle and pedestrian safety and such other matters as the commissioner may prescribe, and to satisfactorily complete a course prescribed by the commissioner of not less than four hours and not more than five hours, consisting of classroom driver training and highway safety instruction or the equivalent thereof. Such test shall include at least seven written questions concerning the effects of consumption of alcohol or drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violations of section eleven hundred ninety-two of this chapter, prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs. Such test shall include one or more written questions concerning the devastating effects of "Road Rage" on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from assaulting, threatening or interfering with the lawful conduct of another person legally using the roadway. Such test shall include one or more questions concerning the potential dangers to persons and equipment resulting from the unsafe operation of a motor vehicle in a work zone. Such test may include one or more questions concerning the law for exercising due care to avoid colliding with a parked, stopped or standing vehicle pursuant to section eleven hundred forty-four-a of this chapter. Such test may include one or more questions concerning bicycle and pedestrian safety. Such test shall be administered by the commissioner. The commissioner shall cause the applicant to take a vision test and a test for color blindness. Upon passage of the vision test, the application may be accepted and the application fee shall be payable.

§ 3. Subparagraph (v) of paragraph (b) of subdivision 2 of section 510 of the vehicle and traffic law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

(v) For a period of six months where the holder is convicted of, or receives a youthful offender or other juvenile adjudication in connection with, any misdemeanor or felony defined in article two hundred twenty or two hundred twenty-one of the penal law, any violation of the federal controlled substances act, ~~[any crime in violation of subdivision four of section eleven hundred ninety-two of this chapter]~~ or any out-of-state or federal misdemeanor or felony drug-related offense; provided, however, that any time actually served in custody pursuant to a sentence or disposition imposed as a result of such conviction or youthful offender or other juvenile adjudication shall be credited against the period of such suspension and, provided further, that the court shall determine that such suspension need not be imposed where there are compelling circumstances warranting an exception.

§ 4. Paragraphs i and j of subdivision 6 of section 510 of the vehicle and traffic law, as added by chapter 533 of the laws of 1993, are amended to read as follows:

i. Where suspension of a driver's license is mandatory hereunder based upon a conviction of, or youthful offender or other juvenile adjudication in connection with, any misdemeanor or felony as defined in article two hundred twenty or two hundred twenty-one of the penal law, any violation of the federal controlled substances act, ~~[any crime in violation of subdivision four of section eleven hundred ninety-two of this chapter]~~ or any out-of-state or federal misdemeanor or felony drug-related offense, the commissioner may issue a restricted use license pursuant to section five hundred thirty of this chapter.

j. Where suspension of a driver's license is mandatory hereunder based upon a conviction of, or youthful offender or other juvenile adjudication in connection with, any misdemeanor or felony as defined in article two hundred twenty or two hundred twenty-one of the penal law, any violation of the federal controlled substances act, [~~any crime in violation of subdivision four of section eleven hundred ninety-two of this chapter~~] or any out-of-state or federal misdemeanor or felony drug-related offense and the individual does not have a driver's license or the individual's driver's license was suspended at the time of conviction or youthful offender or other juvenile adjudication, the commissioner shall not issue a new license nor restore the former license for a period of six months after such individual would otherwise have become eligible to obtain a new license or to have the former license restored; provided, however, that during such delay period the commissioner may issue a restricted use license pursuant to section five hundred thirty of this [~~chapter~~] title to such previously suspended licensee.

§ 5. Paragraph (b) of subdivision 2 of section 1193 of the vehicle and traffic law is amended by adding a new subparagraph 13 to read as follows:

(13) Where revocation of a driver's license is mandatory hereunder based upon a conviction of, or youthful offender or other juvenile adjudication in connection with any crime in violation of subdivision four of section eleven hundred ninety-two of this article and the individual does not have a driver's license or the individual's driver's license was suspended or revoked at the time of conviction or youthful offender or other juvenile adjudication, the commissioner shall not issue a new license nor restore the former license for a period of six months after such individual would otherwise have become eligible to obtain a new license or to have the former license restored; provided, however, that during such period the commissioner may issue a conditional license pursuant to section eleven hundred ninety-six of this article to such previously revoked licensee.

§ 6. Clauses a and b of subparagraph 1 of paragraph (d) of subdivision 2 of section 1194 of the vehicle and traffic law, as amended by chapter 732 of the laws of 2006, are amended to read as follows:

a. Any license which has been revoked pursuant to paragraph (c) of this subdivision shall not be restored for at least [~~one year~~] eighteen months after such revocation, nor thereafter, except in the discretion of the commissioner. However, no such license shall be restored for at least [~~eighteen~~] twenty-four months after such revocation, nor thereafter except in the discretion of the commissioner, in any case where the person has had a prior revocation resulting from refusal to submit to a chemical test, or has been convicted of or found to be in violation of any subdivision of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article not arising out of the same incident, within the five years immediately preceding the date of such revocation; provided, however, a prior finding that a person under the age of twenty-one has refused to submit to a chemical test pursuant to subdivision three of section eleven hundred ninety-four-a of this article shall have the same effect as a prior finding of a refusal pursuant to this subdivision solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense or refusal is committed or occurred prior to the expiration of the

1 retention period for such prior refusal as set forth in paragraph (k) of  
2 subdivision one of section two hundred one of this chapter.

3 b. Any license which has been revoked pursuant to paragraph (c) of  
4 this subdivision or pursuant to subdivision three of section eleven  
5 hundred ninety-four-a of this article, where the holder was under the  
6 age of twenty-one years at the time of such refusal, shall not be  
7 restored for at least ~~[one-year]~~ eighteen months, nor thereafter, except  
8 in the discretion of the commissioner. Where such person under the age  
9 of twenty-one years has a prior finding, conviction or youthful offender  
10 adjudication resulting from a violation of section eleven hundred nine-  
11 ty-two or section eleven hundred ninety-two-a of this article, not aris-  
12 ing from the same incident, such license shall not be restored for at  
13 least ~~[one-year]~~ twenty-four months or until such person reaches the age  
14 of twenty-one years, whichever is the greater period of time, nor there-  
15 after, except in the discretion of the commissioner.

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

19 (a) Except as otherwise provided in this section, no person shall  
20 operate a motor vehicle upon a public highway while using a mobile tele-  
21 phone to engage in a call while such vehicle is in motion; provided,  
22 however, that no person shall operate a commercial motor vehicle while  
23 using a mobile telephone to engage in a call on a public highway  
24 ~~[including while temporarily stationary because of traffic, a traffic~~  
25 ~~control device, or other momentary delays]~~. Provided further, however,  
26 that a person shall not be deemed to be operating a ~~[commercial]~~ motor  
27 vehicle while using a mobile telephone to engage in a call on a public  
28 highway when such vehicle is stopped at the side of, or off, a public  
29 highway in a location where such vehicle is not otherwise prohibited  
30 from stopping by law, rule, regulation or any lawful order or direction  
31 of a police officer.

32 (b) An operator of any motor vehicle upon a public highway who holds a  
33 mobile telephone to, or in the immediate proximity of, his or her ear  
34 ~~[while such vehicle is in motion]~~ is presumed to be engaging in a call  
35 within the meaning of this section~~;~~ ~~provided, however, that an operator~~  
36 ~~of a commercial motor vehicle who holds a mobile telephone to, or in the~~  
37 ~~immediate proximity of, his or her ear while such vehicle is temporarily~~  
38 ~~stationary because of traffic, a traffic control device, or other momen-~~  
39 ~~tary delays is also presumed to be engaging in a call within the meaning~~  
40 ~~of this section except that a person operating a commercial motor vehi-~~  
41 ~~cle while using a mobile telephone to engage in a call when such vehicle~~  
42 ~~is stopped at the side of, or off, a public highway in a location where~~  
43 ~~such vehicle is not otherwise prohibited from stopping by law, rule,~~  
44 ~~regulation or any lawful order or direction of a police officer shall~~  
45 ~~not be presumed to be engaging in a call within the meaning of this~~  
46 ~~section]~~. The presumption established by this subdivision is rebuttable  
47 by evidence tending to show that the operator was not engaged in a call.

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

51 2-a. No person under eighteen years of age shall operate a motor vehi-  
52 cle upon a public highway while engaging in a call with a hand held or  
53 hands free mobile telephone. For the purposes of this subdivision,  
54 engaging in a call shall include making or receiving a call with a hand  
55 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) the use of a hands-free mobile telephone except as applied to persons under the age of eighteen years.

§ 9. Subdivisions 1 and 4 of section 1225-d of the vehicle and traffic law, subdivision 1 as amended by section 6 and subdivision 4 as amended by section 10 of part C of chapter 58 of the laws of 2013, are amended to read as follows:

1. Except as otherwise provided in this section, no person shall operate a motor vehicle while using any portable electronic device ~~[while such vehicle is in motion; provided, however, that no person shall operate a commercial motor vehicle while using any portable electronic device on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays]~~. Provided further, however, that a person shall not be deemed to be operating a ~~[commercial]~~ motor vehicle while using a portable electronic device on a public highway 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.

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.

§ 10. 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

1 doing so for the purpose of SMS texting, emailing, instant messaging or  
2 engaging in any other form of electronic data retrieval or electronic  
3 data communication.

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

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

13 (e) "Personal wireless communications device" shall: (i) mean a device  
14 through which personal wireless services (as defined in section  
15 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332  
16 (c)(7)(C)(i)), are transmitted; and

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

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

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

27 § 13. This act shall take effect on the first of October next succeed-  
28 ing the date on which it shall have become a law.

29 PART M

30 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174  
31 of the laws of 1968 constituting the New York state urban development  
32 corporation act, as amended by section 1 of part F of chapter 58 of the  
33 laws of 2016, is amended to read as follows:

34 3. The provisions of this section shall expire, notwithstanding any  
35 inconsistent provision of subdivision 4 of section 469 of chapter 309 of  
36 the laws of 1996 or of any other law, on July 1, [~~2017~~] 2018.

37 § 2. This act shall take effect immediately and shall be deemed to  
38 have been in full force and effect on and after July 1, 2017.

39 PART N

40 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the  
41 New York state urban development corporation act, relating to the powers  
42 of the New York state urban development corporation to make loans, as  
43 amended by section 1 of part G of chapter 58 of the laws of 2016, is  
44 amended to read as follows:

45 § 2. This act shall take effect immediately provided, however, that  
46 section one of this act shall expire on July 1, [~~2017~~] 2018, at which  
47 time the provisions of subdivision 26 of section 5 of the New York state  
48 urban development corporation act shall be deemed repealed; provided,  
49 however, that neither the expiration nor the repeal of such subdivision  
50 as provided for herein shall be deemed to affect or impair in any manner  
51 any loan made pursuant to the authority of such subdivision prior to  
52 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, 2017.

## PART O

Section 1. 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 2 of part Q of chapter 58 of the laws of 2015, is amended to read as follows:

The provisions of ~~[section]~~ sections sixty-two through sixty-six of this act shall expire on December thirty-first, two thousand ~~[seventeen]~~ eighteen, except that:

§ 2. This act shall take effect immediately.

## PART P

Section 1. Subdivision (a) of section 2 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, is amended to read as follows:

(a) "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, any authority as such term is defined in section 2 of the public authorities law, every state agency, as such term is defined in section 160 of the state finance law and including the state university of New York and the city university of New York, and any and all affiliates or subsidiaries of such entities, and counties as such term is defined in section 3 of the county law, excluding Bronx, Kings, New York, Queens, and Richmond counties.

§ 2. Section 2 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, is amended by adding a new subdivision (b-1) to read as follows:

(b-1) "capital assets" shall have the same meaning as such term is defined by subdivision 6-b of section 2 of the state finance law.

§ 3. Section 3 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, 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 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 related to ~~[the state's physical infrastructure, including, but not limited to, the state's 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 highways, bridges, dams, flood control projects, canals, and parks or to improve or add to the state's highways, bridges, dams, flood control projects, canals, and parks~~ publicly owned capital assets; 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 total cost of each such project shall not be less than one million two hundred thousand dollars (\$1,200,000).

§ 4. Section 4 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, is amended to read as follows:

§ 4. An entity selected by an authorized ~~[state]~~ entity to enter into a design-build contract shall be selected through a two-step method, as follows:

(a) Step one. Generation of a list of entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of entities, as determined by an authorized ~~[state]~~ entity, and shall be generated based upon the authorized ~~[state]~~ entity's review of responses to a publicly advertised request for qualifications. The authorized ~~[state]~~ entity's request for qualifications shall include a general description of the project, the maximum number of entities to be included on the list, and the selection criteria to be used in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized ~~[state]~~ entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized ~~[state]~~ entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings, the authorized ~~[state]~~ entity shall list the entities that shall receive a request for proposals in accordance with subdivision (b) of this section. To the extent consistent with applicable federal law, the authorized ~~[state]~~ entity shall consider, when awarding any contract pursuant to this section, the participation of: (i) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; ~~[and]~~ (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law.

(b) Step two. Selection of the proposal which is the best value to the ~~[state]~~ authorized entity. The authorized ~~[state]~~ entity shall issue a request for proposals to the entities listed pursuant to subdivision (a) of this section. If such an entity consists of a team of separate entities, the entities that comprise such a team must remain unchanged from the entity as listed pursuant to subdivision (a) of this section unless otherwise approved by the authorized ~~[state]~~ entity. The request for proposals shall set forth the project's scope of work, and other requirements, as determined by the authorized ~~[state]~~ entity. The request for proposals shall specify the criteria to be used to evaluate the responses and the relative weight of each such criteria. Such criteria shall include the proposal's cost, the quality of the proposal's solution, the qualifications and experience of the design-build entity, and other factors deemed pertinent by the authorized

1 [state] entity, which may include, but shall not be limited to, the  
2 proposal's project implementation, ability to complete the work in a  
3 timely and satisfactory manner, maintenance costs of the completed  
4 project, maintenance of traffic approach, and community impact. Any  
5 contract awarded pursuant to this act shall be awarded to a responsive  
6 and responsible entity that submits the proposal, which, in consider-  
7 ation of these and other specified criteria deemed pertinent to the  
8 project, offers the best value to the [state] authorized entity, as  
9 determined by the authorized [state] entity. Nothing herein shall be  
10 construed to prohibit the authorized entity from negotiating final  
11 contract terms and conditions including cost.

12 § 5. Section 6 of part F of chapter 60 of the laws of 2015 constitut-  
13 ing the infrastructure investment act, is amended to read as follows:

14 § 6. Construction for each capital project undertaken by the author-  
15 ized [state] entity pursuant to this act shall be deemed a "public work"  
16 to be performed in accordance with the provisions of article 8 of the  
17 labor law, as well as subject to sections 200, 240, 241 and 242 of the  
18 labor law and enforcement of prevailing wage requirements by the New  
19 York state department of labor.

20 § 6. Section 7 of part F of chapter 60 of the laws of 2015 constitut-  
21 ing the infrastructure investment act, is amended to read as follows:

22 § 7. If otherwise applicable, capital projects undertaken by the  
23 authorized [state] entity pursuant to this act shall be subject to  
24 section 135 of the state finance law, section 101 of the general municipi-  
25 pal law, and section 222 of the labor law; provided, however, that an  
26 authorized entity may fulfill its obligations under section 135 of the  
27 state finance law or section 101 of the general municipal law by requir-  
28 ing the contractor to prepare separate specifications in accordance with  
29 section 135 of the state finance law or section 101 of the general  
30 municipal law, as the case may be.

31 § 7. Section 8 of part F of chapter 60 of the laws of 2015 constitut-  
32 ing the infrastructure investment act, is amended to read as follows:

33 § 8. Each contract entered into by the authorized [state] entity  
34 pursuant to this section shall comply with the objectives and goals of  
35 minority and women-owned business enterprises pursuant to article 15-A  
36 of the executive law or, for projects receiving federal aid, shall  
37 comply with applicable federal requirements for disadvantaged business  
38 enterprises.

39 § 8. Section 9 of part F of chapter 60 of the laws of 2015 constitut-  
40 ing the infrastructure investment act, is amended to read as follows:

41 § 9. Capital projects undertaken by the authorized [state] entity  
42 pursuant to this act shall be subject to the requirements of article 8  
43 of the environmental conservation law, and, where applicable, the  
44 requirements of the national environmental policy act.

45 § 9. Section 10 of part F of chapter 60 of the laws of 2015 constitut-  
46 ing the infrastructure investment act, is amended to read as follows:

47 § 10. If otherwise applicable, capital projects undertaken by the  
48 authorized [state] entity pursuant to this act shall be governed by  
49 sections 139-d, 139-j, 139-k, paragraph f of subdivision 1 and paragraph  
50 g of subdivision 9 of section 163 of the state finance law.

51 § 10. Section 12 of part F of chapter 60 of the laws of 2015 consti-  
52 tuting the infrastructure investment act, is amended to read as follows:

53 § 12. Nothing contained in this act shall limit the right or obli-  
54 gation of the authorized [state] entity to comply with the provisions of  
55 any existing contract, including any existing contract with or for the



1 benefit of the holders of the obligations of the authorized [~~state~~]  
2 entity, or to award contracts as otherwise provided by law.

3 § 11. Section 13 of part F of chapter 60 of the laws of 2015 consti-  
4 tuting the infrastructure investment act, is amended to read as follows:

5 § 13. Alternative construction awarding processes. (a) Notwithstand-  
6 ing the provisions of any other law to the contrary, the authorized  
7 [~~state~~] entity may award a construction contract:

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

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

14 (i) describe the scope of the work and the cost of performing such  
15 work;

16 (ii) include a detailed line item cost breakdown;

17 (iii) include a list of all drawings, specifications and other infor-  
18 mation on which the guaranteed maximum price is based;

19 (iv) include the dates for substantial and final completion on which  
20 the guaranteed maximum price is based; and

21 (v) include a schedule of unit prices; or

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

27 (b) Capital projects undertaken by an authorized [~~state~~] entity may  
28 include an incentive clause in the contract for various performance  
29 objectives, but the incentive clause shall not include an incentive that  
30 exceeds the quantifiable value of the benefit received by the [~~state~~]  
31 authorized entity. The authorized [~~state~~] entity shall establish such  
32 performance and payment bonds as it deems necessary.

33 § 12. Section 14 of part F of chapter 60 of the laws of 2015 consti-  
34 tuting the infrastructure investment act, is amended to read as follows:

35 § 14. Prequalified contractors. (a) Notwithstanding any other  
36 provision of law, the authorized [~~state~~] entity may maintain a list of  
37 prequalified contractors who are eligible to submit a proposal pursuant  
38 to this act and entry into such list shall be continuously available.  
39 Prospective contractors may be prequalified as contractors to provide  
40 particular types of construction, in accordance with general criteria  
41 established by the authorized [~~state~~] entity which may include, but  
42 shall not be limited to, the experience, past performance, ability to  
43 undertake the type and complexity of work, financial capability, respon-  
44 sibility, compliance with equal employment opportunity requirements and  
45 anti-discrimination laws, and reliability. Such prequalification may be  
46 by categories designed by size and other factors.

47 (b) A contractor who is denied prequalification or whose prequalifica-  
48 tion is revoked or suspended by the authorized [~~state~~] entity may appeal  
49 such decision to the authorized [~~state~~] entity. If such a suspension  
50 extends for more than three months, it shall be deemed a revocation of  
51 the prequalification. The authorized [~~state~~] entity may proceed with the  
52 contract award during any appeal.

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

1 § 15-a. Any contract awarded pursuant to this act shall be deemed to  
2 be awarded pursuant to a competitive procurement for purposes of section  
3 2879-a of the public authorities law.

4 § 14. Section 17 of part F of chapter 60 of the laws of 2015 consti-  
5 tuting the infrastructure investment act, is amended to read as follows:

6 § 17. This act shall take effect immediately [~~and shall expire and be~~  
7 ~~deemed repealed 2 years after such date, provided that, projects with~~  
8 ~~requests for qualifications issued prior to such repeal shall be permit-~~  
9 ~~ted to continue under this act notwithstanding such repeal~~].

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

14 PART Q

15 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the  
16 executive law relating to permitting the secretary of state to provide  
17 special handling for all documents filed or issued by the division of  
18 corporations and to permit additional levels of such expedited service,  
19 as amended by section 1 of part M of chapter 58 of the laws of 2016, is  
20 amended to read as follows:

21 § 2. This act shall take effect immediately, provided however, that  
22 section one of this act shall be deemed to have been in full force and  
23 effect on and after April 1, 2003 and shall expire March 31, [~~2017~~]  
24 2018.

25 § 2. This act shall take effect immediately and shall be deemed to  
26 have been in full force and effect on and after March 31, 2017.

27 PART R

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

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

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

43 (a) In addition to such designation of the secretary of state, every  
44 domestic corporation or authorized foreign corporation may designate a  
45 registered agent in this state upon whom process against such corpo-  
46 ration may be served. The agent shall be a natural person who is a resi-  
47 dent of or has a business address in this state [~~or~~], a domestic corpo-  
48 ration or foreign corporation of any type or kind formed[~~7~~] or  
49 authorized to do business in this state, under this chapter or under any  
50 other statute of this state, or domestic limited liability company or  
51 foreign limited liability company formed or authorized to do business in  
52 this state.

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

4 (1) Service of process on the secretary of state as agent of a domes-  
5 tic or authorized foreign corporation, or other business entity that has  
6 designated the secretary of state as agent for service of process pursu-  
7 ant to article nine of this chapter, shall be made by [~~personally deliv-~~  
8 ~~ering to and leaving with the secretary of state or a deputy, or with~~  
9 ~~any person authorized by the secretary of state to receive such service,~~  
10 ~~at the office of the department of state in the city of Albany, dupli-~~  
11 ~~cate copies of such process together with the statutory fee, which fee~~  
12 ~~shall be a taxable disbursement] mailing the process and notice of  
13 service thereof by certified mail, return receipt requested, to such  
14 corporation or other business entity, at the post office address on file  
15 in the department of state, specified for this purpose. If a domestic or  
16 authorized foreign corporation has no such address on file in the  
17 department of state, the process and notice of service thereof shall be  
18 mailed, in the case of a domestic corporation, in care of any director  
19 named in its certificate of incorporation at the director's address  
20 stated therein or, in the case of an authorized foreign corporation, to  
21 such corporation at the address of its office within this state on file  
22 in the department. On the same day that such process is mailed, a dupli-  
23 cate copy of such process and proof of mailing together with the statu-  
24 tory fee, which fee shall be a taxable disbursement shall be personally  
25 delivered to and left with the secretary of state or a deputy, or with  
26 any person authorized by the secretary of state to receive such service,  
27 at the office of the department of state in the city of Albany. Proof of  
28 mailing shall be by affidavit of compliance with this section. Service  
29 of process on such corporation or other business entity shall be  
30 complete when the secretary of state is so served. [~~The secretary of~~  
31 ~~state shall promptly send one of such copies by certified mail, return~~  
32 ~~receipt requested, to such corporation, at the post office address, on~~  
33 ~~file in the department of state, specified for the purpose. If a domes-~~  
34 ~~tic or authorized foreign corporation has no such address on file in the~~  
35 ~~department of state, the secretary of state shall so mail such copy, in~~  
36 ~~the case of a domestic corporation, in care of any director named in its~~  
37 ~~certificate of incorporation at the director's address stated therein~~  
38 ~~or, in the case of an authorized foreign corporation, to such corpo-~~  
39 ~~ration at the address of its office within this state on file in the~~  
40 ~~department.~~]~~

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

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

49 (3) That sixty days prior to the filing of the certificate of resigna-  
50 tion or receipt of process with the department of state the party has  
51 sent a copy of the certificate of resignation for receipt of process by  
52 registered or certified mail to the address of the registered agent of  
53 the designating corporation, if other than the party filing the certif-  
54 icate of resignation[~~7~~] for receipt of process, or if the [~~resigning~~]  
55 designating corporation has no registered agent, then to the last  
56 address of the designating corporation known to the party, specifying

1 the address to which the copy was sent. If there is no registered agent  
2 and no known address of the designating corporation, the party shall  
3 attach an affidavit to the certificate stating that a diligent but  
4 unsuccessful search was made by the party to locate the corporation,  
5 specifying what efforts were made.

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

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

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

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

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

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

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

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

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

35 (b) A certificate of change which changes only the post office address  
36 to which [~~the secretary of state~~] a person shall mail a copy of any  
37 process against a corporation served upon [~~him or~~] the secretary of  
38 state and/or the address of the registered agent, provided such address  
39 being changed is the address of a person, partnership, limited liability  
40 company or other corporation whose address, as agent, is the address to  
41 be changed or who has been designated as registered agent for such  
42 corporation, may be signed[, ~~verified~~] and delivered to the department  
43 of state by such agent. The certificate of change shall set forth the  
44 statements required under subparagraphs [~~(a)~~] (1), (2) and (3) of para-  
45 graph (a) of this section; that a notice of the proposed change was  
46 mailed to the corporation by the party signing the certificate not less  
47 than thirty days prior to the date of delivery to the department and  
48 that such corporation has not objected thereto; and that the party sign-  
49 ing the certificate is the agent of such corporation to whose address  
50 [~~the secretary of state~~] a person is required to mail copies of process  
51 served on the secretary of state or the registered agent, if such be the  
52 case. A certificate signed[, ~~verified~~] and delivered under this para-  
53 graph shall not be deemed to effect a change of location of the office  
54 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



1 set forth the statements required under subparagraphs (1), (2), (3) and  
2 (4) of paragraph (b) of this section; that a notice of the proposed  
3 change was mailed by the party signing the certificate to the authorized  
4 foreign corporation not less than thirty days prior to the date of  
5 delivery to the department and that such corporation has not objected  
6 thereto; and that the party signing the certificate is the agent of such  
7 foreign corporation to whose address [~~the secretary of state~~] a person  
8 is required to mail copies of process served on the secretary of state  
9 or the registered agent, if such be the case. A certificate signed and  
10 delivered under this paragraph shall not be deemed to effect a change of  
11 location of the office of the corporation in whose behalf such certif-  
12 icate is filed.

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

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

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

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

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

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

32 § 1311. Termination of existence.

33 When an authorized foreign corporation is dissolved or its authority  
34 or existence is otherwise terminated or cancelled in the jurisdiction of  
35 its incorporation or when such foreign corporation is merged into or  
36 consolidated with another foreign corporation, a certificate of the  
37 secretary of state, or official performing the equivalent function as to  
38 corporate records, of the jurisdiction of incorporation of such foreign  
39 corporation attesting to the occurrence of any such event or a certified  
40 copy of an order or decree of a court of such jurisdiction directing the  
41 dissolution of such foreign corporation, the termination of its exist-  
42 ence or the cancellation of its authority shall be delivered to the  
43 department of state. The filing of the certificate, order or decree  
44 shall have the same effect as the filing of a certificate of surrender  
45 of authority under section 1310 (Surrender of authority). The secretary  
46 of state shall continue as agent of the foreign corporation upon whom  
47 process against it may be served in the manner set forth in paragraph  
48 (b) of section 306 (Service of process), in any action or special  
49 proceeding based upon any liability or obligation incurred by the  
50 foreign corporation within this state prior to the filing of such  
51 certificate, order or decree and [~~he~~] the person serving such process  
52 shall [~~promptly cause a copy of any such~~] send the process [~~to be~~  
53 ~~mailed~~] by [~~registered~~] certified mail, return receipt requested, to  
54 such foreign corporation at the post office address on file in his  
55 office specified for such purpose and shall provide the secretary of  
state with proof of such mailing in the manner set forth in paragraph

1 (b) of section 306 (service of process). The post office address may be  
2 changed by signing and delivering to the department of state a certifi-  
3 cate of change setting forth the statements required under section  
4 1309-A (Certificate of change; contents) to effect a change in the post  
5 office address under subparagraph seven of paragraph (a) [~~(4)~~] of  
6 section 1308 (Amendments or changes).

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

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

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

18 10. A designation of the secretary of state as agent of the corpo-  
19 ration upon whom process against it may be served and the post office  
20 address, within or without this state, to which [~~the secretary of state~~]  
21 a person shall mail a copy of any process against it served upon [~~him~~]  
22 the secretary of state.

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

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

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

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

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

53 5. Any designated post office address maintained by the secretary of  
54 state as agent in any action or proceeding against the association for  
55 the purpose of mailing process shall be the post office address, within  
56 or without the state, to which a person shall mail process against such

1 association as required by this article. Such address shall continue  
2 until the filing of a certificate under this chapter directing the mail-  
3 ing to a different post office address.

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

10 § 22. Section 19 of the general associations law, as amended by chap-  
11 ter 166 of the laws of 1991, is amended to read as follows:

12 § 19. Service of process. 1. Service of process against an associ-  
13 ation upon the secretary of state shall be made by mailing the process  
14 and notice of service thereof by certified mail, return receipt  
15 requested, to such corporation or other business entity, at the post  
16 office address, on file in the department of state, specified for this  
17 purpose. On the same day that such process is mailed, a duplicate copy  
18 of such process and proof of mailing shall be personally ~~delivering~~  
19 ~~delivered~~ to and ~~leaving~~ left with ~~him~~ the secretary of state or a  
20 deputy ~~[secretary of state or an associate attorney, senior attorney or~~  
21 ~~attorney in the corporation division of the department of state]~~, so  
22 designated ~~[duplicate copies of such process at the office of the~~  
23 ~~department of state in the city of Albany]~~. At the time of such service  
24 the plaintiff shall pay a fee of forty dollars to the secretary of state  
25 which shall be a taxable disbursement. ~~[If the cost of registered mail~~  
26 ~~for transmitting a copy of the process shall exceed two dollars, an~~  
27 ~~additional fee equal to such excess shall be paid at the time of the~~  
28 ~~service of such process. The secretary of state shall forthwith send by~~  
29 ~~registered mail one of such copies to the association at the address~~  
30 ~~fixed for that purpose, as herein provided.]~~

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

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

42 2. Service of such process upon the secretary of state shall be made  
43 by personally delivering to and leaving with him ~~or~~, a deputy secre-  
44 tary of state, or with a person authorized by the secretary of state to  
45 receive such service, a copy thereof at the office of the department of  
46 state in the city of Albany, and such service shall be sufficient  
47 service provided that notice of such service and a copy of such process  
48 are forthwith sent by the attorney general to such person, partnership,  
49 corporation, company, trust or association, by registered or certified  
50 mail with return receipt requested, at his or its office as set forth in  
51 the "broker-dealer's statement", "salesman's statement" or "investment  
52 advisor's statement" filed in the department of law pursuant to section  
53 three hundred fifty-nine-e or section three hundred fifty-nine-eee of  
54 this article, or in default of the filing of such statement, at the last  
55 address known to the attorney general. Service of such process shall be  
56 complete on receipt by the attorney general of a return receipt purport-

ing 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 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 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 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]~~ the secretary of state or 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 address as set forth in the application for registration of his 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 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 her]~~ 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.

~~[(e)]~~ (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

1 section 301-A of the limited liability company law, as added by chapter  
2 448 of the laws of 1998, are amended to read as follows:

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

8 (3) that sixty days prior to the filing of the certificate of resigna-  
9 tion or receipt of process with the department of state the party has  
10 sent a copy of the certificate of resignation for receipt of process by  
11 registered or certified mail to the address of the registered agent of  
12 the designated limited liability company, if other than the party filing  
13 the certificate of resignation[~~r~~] for receipt of process, or if the  
14 [~~resigning~~] designating limited liability company has no registered  
15 agent, then to the last address of the designated limited liability  
16 company known to the party, specifying the address to which the copy was  
17 sent. If there is no registered agent and no known address of the desig-  
18 nating limited liability company, the party shall attach an affidavit to  
19 the certificate stating that a diligent but unsuccessful search was made  
20 by the party to locate the limited liability company, specifying what  
21 efforts were made.

22 (ii) sent by or on behalf of the plaintiff to such limited liability  
23 company by registered or certified mail with return receipt requested to  
24 the last address of such limited liability company known to the plain-  
25 tiff.

26 (ii) Where service of a copy of process was effected by mailing in  
27 accordance with this section, proof of service shall be by affidavit of  
28 compliance with this section filed, together with the process, within  
29 thirty days after receipt of the return receipt signed by the limited  
30 liability company or other official proof of delivery or of the original  
31 envelope mailed. If a copy of the process is mailed in accordance with  
32 this section, there shall be filed with the affidavit of compliance  
33 either the return receipt signed by such limited liability company or  
34 other official proof of delivery, if acceptance was refused by it, the  
35 original envelope with a notation by the postal authorities that accept-  
36 ance was refused. If acceptance was refused a copy of the notice and  
37 process together with notice of the mailing by registered or certified  
38 mail and refusal to accept shall be promptly sent to such limited  
39 liability company at the same address by ordinary mail and the affidavit  
40 of compliance shall so state. Service of process shall be complete ten  
41 days after such papers are filed with the clerk of the court. The  
42 refusal to accept delivery of the registered or certified mail or to  
43 sign the return receipt shall not affect the validity of the service and  
44 such limited liability company refusing to accept such registered or  
45 certified mail shall be charged with knowledge of the contents thereof.

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

49 (a) Service of process on the secretary of state as agent of a domes-  
50 tic limited liability company [~~or~~], authorized foreign limited liability  
51 company, or other business entity that has designated the secretary of  
52 state as agent for service of process pursuant to article ten of this  
53 chapter, shall be made by mailing the process and notice of service  
54 thereof by certified mail, return receipt requested, to such limited  
55 liability company or other business entity, at the post office address,  
56 on file in the department of state, specified for this purpose. On the

1 same day as such process is mailed, a duplicate copy of such process and  
2 proof of mailing shall be ~~made by~~ personally ~~delivering~~ delivered to  
3 and ~~leaving~~ left with the secretary of state or his or her deputy, or  
4 with any person authorized by the secretary of state to receive such  
5 service, at the office of the department of state in the city of Albany,  
6 ~~duplicate copies of such process~~ together with the statutory fee,  
7 which fee shall be a taxable disbursement. Proof of mailing shall be by  
8 affidavit of compliance with this section. Service of process on such  
9 limited liability company or other business entity shall be complete  
10 when the secretary of state is so served. ~~[The secretary of state shall~~  
11 ~~promptly send one of such copies by certified mail, return receipt~~  
12 ~~requested, to such limited liability company at the post office address~~  
13 ~~on file in the department of state specified for that purpose.]~~

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

16 § 305. Records of process served on the secretary of state. The  
17 ~~[secretary of state]~~ department of state shall keep a record of each  
18 process served upon the secretary of state under this chapter, including  
19 the date of such service ~~[and the action of the secretary of state with~~  
20 ~~reference thereto]~~. It shall, upon request made within ten years of such  
21 service, issue a certificate under its seal certifying as to the receipt  
22 of the process by an authorized person, the date and place of such  
23 service and the receipt of the statutory fee. Process served upon the  
24 secretary of state under this chapter shall be destroyed by the depart-  
25 ment of state after a period of ten years from such service.

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

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

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

36 § 804-A. Certificate of change. (a) A foreign limited liability compa-  
37 ny may amend its application for authority from time to time to (i)  
38 specify or change the location of the limited liability company's  
39 office; (ii) specify or change the post office address to which ~~[the~~  
40 ~~secretary of state]~~ a person shall mail a copy of any process against  
41 the limited liability company served upon ~~[him]~~ the secretary of state;  
42 and (iii) to make, revoke or change the designation of a registered  
43 agent, or to specify or change the address of a registered agent. Any  
44 one or more such changes may be accomplished by filing a certificate of  
45 change which shall be entitled "Certificate of Change of ..... (name  
46 of limited liability company) under section 804-A of the Limited Liabil-  
47 ity Company Law" and shall be signed and delivered to the department of  
48 state. It shall set forth:

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

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

54 (3) each change effected thereby~~[7]~~.

55 (b) A certificate of change which changes only the post office address  
56 to which ~~[the secretary of state]~~ a person shall mail a copy of any

1 process against a foreign limited liability company served upon [~~him or~~  
2 the secretary of state and/or the address of the registered agent,  
3 provided such address being changed is the address of a person, partner-  
4 ship [~~or~~], corporation or other limited liability company whose address,  
5 as agent, is the address to be changed or who has been designated as  
6 registered agent for such limited liability company may be signed and  
7 delivered to the department of state by such agent. The certificate of  
8 change shall set forth the statements required under subdivision (a) of  
9 this section; that a notice of the proposed change was mailed to the  
10 foreign limited liability company by the party signing the certificate  
11 not less than thirty days prior to the date of delivery to the depart-  
12 ment of state and that such foreign limited liability company has not  
13 objected thereto; and that the party signing the certificate is the  
14 agent of such foreign limited liability company to whose address [~~the~~  
15 ~~secretary of state~~] a person is required to mail copies of process  
16 served on the secretary of state or the registered agent, if such be the  
17 case. A certificate signed and delivered under this subdivision shall  
18 not be deemed to effect a change of location of the office of the  
19 foreign limited liability company in whose behalf such certificate is  
20 filed.

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

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

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

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

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

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

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

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

55 (5) a statement that the secretary of state has been designated as  
56 agent of the foreign professional service limited liability company upon

1 whom process against it may be served and the post office address, with-  
2 in or without this state, to which [~~the secretary of state~~] a person  
3 shall mail a copy of any process against it served upon [~~him or her~~] the  
4 secretary of state;

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

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

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

22 (a) Every domestic corporation or authorized foreign corporation may  
23 designate a registered agent in this state upon whom process against  
24 such corporation may be served. The agent shall be a natural person who  
25 is a resident of or has a business address in this state or a domestic  
26 corporation or foreign corporation of any kind formed[~~7~~] or authorized  
27 to do business in this state, under this chapter or under any other  
28 statute of this state, or a domestic limited liability company or a  
29 foreign limited liability company authorized to do business in this  
30 state.

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

34 (b) Service of process on the secretary of state as agent of a domes-  
35 tic corporation formed under article four of this chapter or an author-  
36 ized foreign corporation shall be made by mailing the process and notice  
37 of service thereof by certified mail, return receipt requested, to such  
38 corporation or other business entity, at the post office address, on  
39 file in the department of state, specified for this purpose. On the same  
40 day that such process is mailed, a duplicate copy of such process and  
41 proof of mailing shall be personally [~~delivering~~] delivered to and  
42 [~~leaving~~] left with the secretary of state or his or her deputy, or with  
43 any person authorized by the secretary of state to receive such service,  
44 at the office of the department of state in the city of Albany, [~~dupli-~~  
45 ~~cate copies of such process~~] together with the statutory fee, which fee  
46 shall be a taxable disbursement. Proof of mailing shall be by affidavit  
47 of compliance with this section. Service of process on such corporation  
48 or other business entity shall be complete when the secretary of state  
49 is so served. [~~The secretary of state shall promptly send one of such~~  
50 ~~copies by certified mail, return receipt requested, to such corporation,~~  
51 ~~at the post office address, on file in the department of state, speci-~~  
52 ~~fied for the purpose.~~] If a domestic corporation formed under article  
53 four of this chapter or an authorized foreign corporation has no such  
54 address on file in the department of state, the [~~secretary of state~~  
55 ~~shall so mail such~~] duplicate copy of the process shall be mailed to



1 such corporation at the address of its office within this state on file  
2 in the department.

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

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

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

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

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

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

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

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

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

35 (b) A certificate of change which changes only the post office address  
36 to which [~~the secretary of state~~] a person shall mail a copy of any  
37 process against the corporation served upon [~~him or~~] the secretary of  
38 state and/or the address of the registered agent, provided such address  
39 being changed is the address of a person, partnership, limited liability  
40 company or other corporation whose address, as agent, is the address to  
41 be changed or who has been designated as registered agent for such  
42 corporation, may be signed and delivered to the department of state by  
43 such agent. The certificate of change shall set forth the statements  
44 required under subparagraphs (1), (2) and (3) of paragraph (a) of this  
45 section; that a notice of the proposed change was mailed to the corpo-  
46 ration by the party signing the certificate not less than thirty days  
47 prior to the date of delivery to the department and that such corpo-  
48 ration has not objected thereto; and that the party signing the certif-  
49 icate is the agent of such corporation to whose address [~~the secretary~~  
50 ~~of state~~] a person is required to mail copies of any process against the  
51 corporation served upon [~~him~~] the secretary of state or the registered  
52 agent, if such be the case. A certificate signed and delivered under  
53 this paragraph shall not be deemed to effect a change of location of the  
54 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 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

1 is required to mail copies of process served on the secretary of state  
2 or the registered agent, if such be the case. A certificate signed and  
3 delivered under this paragraph shall not be deemed to effect a change of  
4 location of the office of the corporation in whose behalf such certifi-  
5 cate is filed.

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

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

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

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

17 § 1312. Termination of existence.

18 When an authorized foreign corporation is dissolved or its authority  
19 or existence is otherwise terminated or cancelled in the jurisdiction of  
20 its incorporation or when such foreign corporation is merged into or  
21 consolidated with another foreign corporation, a certificate of the  
22 secretary of state, or official performing the equivalent function as to  
23 corporate records, of the jurisdiction of incorporation of such foreign  
24 corporation attesting to the occurrence of any such event or a certified  
25 copy of an order or decree of a court of such jurisdiction directing the  
26 dissolution of such foreign corporation, the termination of its exist-  
27 ence or the cancellation of its authority shall be delivered to the  
28 department of state. The filing of the certificate, order or decree  
29 shall have the same effect as the filing of a certificate of surrender  
30 of authority under section 1311 (Surrender of authority). The secretary  
31 of state shall continue as agent of the foreign corporation upon whom  
32 process against it may be served in the manner set forth in paragraph  
33 (b) of section 306 (Service of process), in any action or special  
34 proceeding based upon any liability or obligation incurred by the  
35 foreign corporation within this state prior to the filing of such  
36 certificate, order or decree and [~~he~~] the person serving such process  
37 shall promptly cause a copy of any such process to be mailed by [~~regis-~~  
38 ~~tered~~] certified mail, return receipt requested, to such foreign corpo-  
39 ration at the post office address on file in his office specified for  
40 such purpose. The post office address may be changed by signing and  
41 delivering to the department of state a certificate of change setting  
42 forth the statements required under section 1310 (Certificate of change,  
43 contents) to effect a change in the post office address under subpara-  
44 graph [~~(a) — (4)~~] (7) of paragraph (a) of section 1308 (Amendments or  
45 changes).

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

48 (c) Any designated post office address maintained by the secretary of  
49 state as agent of a domestic limited partnership or foreign limited  
50 partnership for the purpose of mailing process shall be the post office  
51 address, within or without the state, to which a person shall mail proc-  
52 ess against such limited partnership as required by this article. Any  
53 designated post office address to which the secretary of state or a  
54 person shall mail a copy of process served upon [~~him~~] the secretary of  
55 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 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 registered 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 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 that 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 disburse-

ment. 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 him 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, paragraph 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 regis-



tered 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 her]~~ 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 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.

§ 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

1 ~~[secretary of state]~~ a person shall mail a copy of any process against  
2 it or served ~~[upon it]~~ on the secretary of state;

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

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

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

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

20 (j-1) A certificate of change which changes only the post office  
21 address to which ~~[the secretary of state]~~ a person shall mail a copy of  
22 any process against a registered limited liability partnership served  
23 upon ~~[him]~~ the secretary of state and/or the address of the registered  
24 agent, provided such address being changed is the address of a person,  
25 partnership, limited liability company or corporation whose address, as  
26 agent, is the address to be changed or who has been designated as regis-  
27 tered agent for such registered limited liability partnership shall be  
28 signed and delivered to the department of state by such agent. The  
29 certificate of change shall set forth: (i) the name of the registered  
30 limited liability partnership and, if it has been changed, the name  
31 under which it was originally filed with the department of state; (ii)  
32 the date of filing of its initial registration or notice statement;  
33 (iii) each change effected thereby; (iv) that a notice of the proposed  
34 change was mailed to the limited liability partnership by the party  
35 signing the certificate not less than thirty days prior to the date of  
36 delivery to the department of state and that such limited liability  
37 partnership has not objected thereto; and (v) that the party signing the  
38 certificate is the agent of such limited liability partnership to whose  
39 address ~~[the secretary of state]~~ a person is required to mail copies of  
40 process served on the secretary of state or the registered agent, if  
41 such be the case. A certificate signed and delivered under this subdivi-  
42 sion shall not be deemed to effect a change of location of the office of  
43 the limited liability partnership in whose behalf such certificate is  
44 filed. The certificate of change shall be accompanied by a fee of five  
45 dollars.

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

49 (a) In order for a foreign limited liability partnership to carry on  
50 or conduct or transact business or activities as a New York registered  
51 foreign limited liability partnership in this state, such foreign limit-  
52 ed liability partnership shall file with the department of state a  
53 notice which shall set forth: (i) the name under which the foreign  
54 limited liability partnership intends to carry on or conduct or transact  
55 business or activities in this state; (ii) the date on which and the  
56 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 ~~[delivering]~~ 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



1 service, issue a certificate under its seal certifying as to the receipt  
2 of the process by an authorized person, the date and place of such  
3 service and the receipt of the statutory fee. Process served upon the  
4 secretary of state under this chapter shall be destroyed by the depart-  
5 ment of state after a period of ten years from such service.

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

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

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

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

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

30 (3) That sixty days prior to the filing of the certificate of resigna-  
31 tion with the department of state the party has sent a copy of the  
32 certificate of resignation for receipt of process by registered or  
33 certified mail to the address of the registered agent of the [~~desig-~~  
34 ~~nated~~] designating limited liability partnership, if other than the  
35 party filing the certificate of resignation, for receipt of process, or  
36 if the [~~resigning~~] designating limited liability partnership has no  
37 registered agent, then to the last address of the [~~designated~~] designat-  
38 ing limited liability partnership, known to the party, specifying the  
39 address to which the copy was sent. If there is no registered agent and  
40 no known address of the designating limited liability partnership the  
41 party shall attach an affidavit to the certificate stating that a dili-  
42 gent but unsuccessful search was made by the party to locate the limited  
43 liability partnership, specifying what efforts were made.

44 (4) That the [~~designated~~] designating limited liability partnership is  
45 required to deliver to the department of state a certificate of amend-  
46 ment providing for the designation by the limited liability partnership  
47 of a new address and that upon its failure to file such certificate, its  
48 authority to do business in this state shall be suspended.

49 § 75. Paragraph 16 of subdivision 1 of section 103 of the private  
50 housing finance law, as added by chapter 22 of the laws of 1970, is  
51 amended to read as follows:

52 (16) A designation of the secretary of state as agent of the corpo-  
53 ration upon whom process against it may be served and the post office  
54 address, within or without this state, to which [~~the secretary of state~~]  
55 a person shall mail a copy of any process against it served upon [~~him~~]  
56 the secretary of state.

1 § 76. Subdivision 7 of section 339-n of the real property law is  
2 REPEALED and subdivisions 8 and 9 are renumbered subdivisions 7 and 8.

3 § 76-a. Subdivision 15 of section 20.03 of the arts and cultural  
4 affairs law, as added by chapter 656 of the laws of 1991, is amended to  
5 read as follows:

6 15. "Non-institutional portion" shall mean the part or portion of a  
7 combined-use facility other than the institutional portion. If the non-  
8 institutional portion, or any part thereof, consists of a condominium,  
9 the consent of the trust which has developed or approved the developer  
10 of such condominium shall be required prior to any amendment of the  
11 declaration of such condominium pursuant to subdivision ~~[nine]~~ eight of  
12 section three hundred thirty-nine-n of the real property law and prior  
13 to any amendment of the by-laws of such condominium pursuant to para-  
14 graph (j) of subdivision one of section three hundred thirty-nine-v of  
15 the real property law, and whether or not such trust is a unit owner of  
16 such condominium, it may exercise the rights of the board of managers  
17 and an aggrieved unit owner under section three hundred thirty-nine-j of  
18 the real property law in the case of a failure of any unit owner of such  
19 condominium to comply with the by-laws of such condominium and with the  
20 rules, regulations, and decisions adopted pursuant thereto.

21 § 77. Subdivision 2 of section 339-s of the real property law, as  
22 added by chapter 346 of the laws of 1997, is amended to read as follows:

23 2. ~~[Each such declaration, and any amendment or amendments thereof~~  
24 ~~shall be filed with the department of state]~~ (a) The board of managers  
25 for each condominium subject to this article shall file with the secre-  
26 tary of state a certificate, in writing, signed, designating the secre-  
27 tary of state as agent of the board of managers upon whom process  
28 against it may be served and the post office address to which a person  
29 shall mail a copy of such process. The certificate shall be accompanied  
30 by a fee of sixty dollars.

31 (b) Any board of managers may change the address to which a person  
32 shall mail a copy of process served upon the secretary of state, by  
33 filing a signed certificate of amendment with the department of state.  
34 Such certificate shall be accompanied by a fee of sixty dollars.

35 (c) Service of process on the secretary of state as agent of a board  
36 of managers shall be made by mailing the process and notice of service  
37 of process pursuant to this section by certified mail, return receipt  
38 requested, to such board of managers, at the post office address, on  
39 file in the department of state, specified for this purpose. On the same  
40 day that such process is mailed, a duplicate copy of such process and  
41 proof of mailing shall be personally delivered to and left with the  
42 secretary of state or a deputy, or with any person authorized by the  
43 secretary of state to receive such service, at the office of the depart-  
44 ment of state in the city of Albany, a duplicate copy of such process  
45 with proof of mailing together with the statutory fee, which shall be a  
46 taxable disbursement. Proof of mailing shall be by affidavit of compli-  
47 ance with this section. Service of process on a board of managers shall  
48 be complete when the secretary of state is so served.

49 (d) As used in this article, "process" shall mean judicial process and  
50 all orders, demands, notices or other papers required or permitted by  
51 law to be personally served on a board of managers, for the purpose of  
52 acquiring jurisdiction of such board of managers in any action or  
53 proceeding, civil or criminal, whether judicial, administrative, arbi-  
54 trative or otherwise, in this state or in the federal courts sitting in  
55 or for this state.

1 (e) Nothing in this section shall affect the right to serve process in  
2 any other manner permitted by law.

3 (f) The department of state shall keep a record of each process served  
4 under this section, including the date of service. It shall, upon  
5 request, made within ten years of such service, issue a certificate  
6 under its seal certifying as to the receipt of process by an authorized  
7 person, the date and place of such service and the receipt of the statu-  
8 tory fee. Process served on the secretary of state under this section  
9 shall be destroyed by the department of state after a period of ten  
10 years from such service.

11 (g) Any designated post office address maintained by the secretary of  
12 state as agent of the board of managers for the purpose of mailing proc-  
13 ess shall be the post office address, within or without the state, to  
14 which a person shall mail process against such board as required by this  
15 article. Such address shall continue until the filing of a certificate  
16 under this chapter directing the mailing to a different post office  
17 address.

18 § 78. Subdivisions 3 and 4 of section 442-g of the real property law,  
19 as amended by chapter 482 of the laws of 1963, are amended to read as  
20 follows:

21 3. Service of such process upon the secretary of state shall be made  
22 by personally delivering to and leaving with [~~him or his~~] the secretary  
23 of state or a deputy, or with any person authorized by the secretary of  
24 state to receive such service, at the office of the department of state  
25 in the city of Albany, [~~duplicate copies~~] a copy of such process and  
26 proof of mailing together with a fee of five dollars if the action is  
27 solely for the recovery of a sum of money not in excess of two hundred  
28 dollars and the process is so endorsed, and a fee of ten dollars in any  
29 other action or proceeding, which fee shall be a taxable disbursement.  
30 If such process is served upon behalf of a county, city, town or  
31 village, or other political subdivision of the state, the fee to be paid  
32 to the secretary of state shall be five dollars, irrespective of the  
33 amount involved or the nature of the action on account of which such  
34 service of process is made. [~~If the cost of registered mail for trans-~~  
35 ~~mitting a copy of the process shall exceed two dollars, an additional~~  
36 ~~fee equal to such excess shall be paid at the time of the service of~~  
37 ~~such process.~~] Proof of mailing shall be by affidavit of compliance with  
38 this section. Proof of service shall be by affidavit of compliance with  
39 this subdivision filed by or on behalf of the plaintiff together with  
40 the process, within ten days after such service, with the clerk of the  
41 court in which the action or special proceeding is pending. Service  
42 made as provided in this section shall be complete ten days after such  
43 papers are filed with the clerk of the court and shall have the same  
44 force and validity as if served on him personally within the state and  
45 within the territorial jurisdiction of the court from which the process  
46 issues.

47 4. The [~~secretary of state~~] person serving such process shall [~~prompt-~~  
48 ~~ly~~] send [~~one of~~] such [~~copies~~] process by [~~registered~~] certified mail,  
49 return receipt requested, to the nonresident broker or nonresident  
50 salesman at the post office address of his main office as set forth in  
51 the last application filed by him.

52 § 79. Subdivision 2 of section 203 of the tax law, as amended by chap-  
53 ter 100 of the laws of 1964, is amended to read as follows:

54 2. Every foreign corporation (other than a moneyed corporation)  
55 subject to the provisions of this article, except a corporation having a  
56 certificate of authority [~~under section two hundred twelve of the gener-~~

1 ~~al corporation law~~] or having authority to do business by virtue of  
2 section thirteen hundred five of the business corporation law, shall  
3 file in the department of state a certificate of designation in its  
4 corporate name, signed and acknowledged by its president or a vice-pre-  
5 sident or its secretary or treasurer, under its corporate seal, desig-  
6 nating the secretary of state as its agent upon whom process in any  
7 action provided for by this article may be served within this state, and  
8 setting forth an address to which ~~[the secretary of state]~~ a person  
9 shall mail a copy of any such process against the corporation which may  
10 be served upon ~~[him]~~ the secretary of state. In case any such corpo-  
11 ration shall have failed to file such certificate of designation, it  
12 shall be deemed to have designated the secretary of state as its agent  
13 upon whom such process against it may be served; and until a certificate  
14 of designation shall have been filed the corporation shall be deemed to  
15 have directed ~~[the secretary of state]~~ a person serving process to mail  
16 copies of process served upon ~~[him]~~ the secretary of state to the corpo-  
17 ration at its last known office address within or without the state.  
18 When a certificate of designation has been filed by such corporation  
19 ~~[the secretary of state]~~ a person serving process shall mail copies of  
20 process thereafter served upon ~~[him]~~ the secretary of state to the  
21 address set forth in such certificate. Any such corporation, from time  
22 to time, may change the address to which ~~[the secretary of state]~~ a  
23 person is directed to mail copies of process, by filing a certificate to  
24 that effect executed, signed and acknowledged in like manner as a  
25 certificate of designation as herein provided. Service of process upon  
26 any such corporation or upon any corporation having a certificate of  
27 authority ~~[under section two hundred twelve of the general corporation~~  
28 ~~law]~~ or having authority to do business by virtue of section thirteen  
29 hundred five of the business corporation law, in any action commenced at  
30 any time pursuant to the provisions of this article, may be made by  
31 either (1) personally delivering to and leaving with the secretary of  
32 state, a deputy secretary of state or with any person authorized by the  
33 secretary of state to receive such service ~~[duplicate copies]~~ a copy  
34 thereof at the office of the department of state in the city of Albany,  
35 in which event ~~[the secretary of state]~~ a person serving such process  
36 shall forthwith send by ~~[registered]~~ certified mail, return receipt  
37 requested, ~~[one of such copies]~~ a duplicate copy to the corporation at  
38 the address designated by it or at its last known office address within  
39 or without the state, or (2) personally delivering to and leaving with  
40 the secretary of state, a deputy secretary of state or with any person  
41 authorized by the secretary of state to receive such service, a copy  
42 thereof at the office of the department of state in the city of Albany  
43 and by delivering a copy thereof to, and leaving such copy with, the  
44 president, vice-president, secretary, assistant secretary, treasurer,  
45 assistant treasurer, or cashier of such corporation, or the officer  
46 performing corresponding functions under another name, or a director or  
47 managing agent of such corporation, personally without the state. Proof  
48 of such personal service without the state shall be filed with the clerk  
49 of the court in which the action is pending within thirty days after  
50 such service, and such service shall be complete ten days after proof  
51 thereof is filed.

52 § 80. Section 216 of the tax law, as added by chapter 415 of the laws  
53 of 1944, the opening paragraph as amended by chapter 100 of the laws of  
54 1964 and redesignated by chapter 613 of the laws of 1976, is amended to  
55 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. 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.

1     § 82. This act shall take effect on the one hundred twentieth day  
2 after it shall have become a law.

3                                   PART S

4     Section 1. Subdivision 6 of section 441-a of the real property law, as  
5 amended by chapter 183 of the laws of 2006, is amended to read as  
6 follows:

7     6. Pocket card. The department shall prepare, issue and deliver, with  
8 the assistance of the department of motor vehicles, ~~[to each licensee]~~  
9 upon payment of a fee of five dollars by a licensee, a pocket card in  
10 such form and manner as the department shall prescribe, but which shall  
11 contain the photo, name and business address of the licensee, and, in  
12 the case of a real estate salesman, the name and business address of the  
13 broker with whom he or she is associated and shall certify that the  
14 person whose name appears thereon is a licensed real estate broker or  
15 salesman, as may be. Such cards must be shown on demand. In the case of  
16 loss, destruction or damage, the secretary of state may, upon submission  
17 of satisfactory proof, issue a duplicate pocket card upon payment of a  
18 fee of ten dollars.

19     § 2. This act shall take effect immediately.

20                                   PART T

21     Section 1. Subdivision 2 of section 54-1101 of the environmental  
22 conservation law, as amended by section 4 of part U of chapter 58 of the  
23 laws of 2016, is amended to read as follows:

24     2. State assistance payments and/or technical assistance, as defined  
25 in section nine hundred seventeen of the executive law, shall not exceed  
26 ~~[fifty]~~ seventy-five percent of the cost of the program. For the purpose  
27 of determining the amount of state assistance payments, costs shall not  
28 be more than the amount set forth in the application for state assist-  
29 ance payments approved by the secretary. The state assistance payments  
30 shall be paid on audit and warrant of the state comptroller on a certifi-  
31 cate of availability of the director of the budget.

32     § 2. The opening paragraph and paragraph a of subdivision 1 of section  
33 918 of the executive law, as added by chapter 840 of the laws of 1981,  
34 are amended to read as follows:

35     The secretary may enter into a contract or contracts for grants or  
36 payments to be made, within the limits of any appropriations therefor,  
37 for the following:

38     a. To any local governments, or to two or more local governments, for  
39 projects approved by the secretary which lead to preparation of a water-  
40 front revitalization program; provided, however, that such grants or  
41 payments shall not exceed ~~[fifty]~~ seventy-five percent of the approved  
42 cost of such projects;

43     § 3. This act shall take effect immediately.

44                                   PART U

45     Section 1. Paragraph (e) of subdivision 1 of section 169 of the execu-  
46 tive law, as amended by section 9 of part A of chapter 60 of the laws of  
47 2012, is amended to read as follows:

48     (e) ~~[chairman of state athletic commission]~~ director of the office of  
49 victim services, chairman of human rights appeal board, chairman of the  
50 industrial board of appeals, chairman of the state commission of

1 correction, members of the board of parole, member-chairman of unemploy-  
2 ment insurance appeal board, director of veterans' affairs, and vice-  
3 chairman of the workers' compensation board;  
4 § 2. This act shall take effect immediately.

5 PART V

6 Section 1. Expenditures of moneys appropriated in a chapter of the  
7 laws of 2017 to the department of agriculture and markets from the  
8 special revenue funds-other/state operations, miscellaneous special  
9 revenue fund-339, public service account shall be subject to the  
10 provisions of this section. Notwithstanding any other provision of law  
11 to the contrary, direct and indirect expenses relating to the department  
12 of agriculture and markets' participation in general ratemaking  
13 proceedings pursuant to section 65 of the public service law or certif-  
14 ication proceedings pursuant to article 7 or 10 of the public service  
15 law, shall be deemed expenses of the department of public service within  
16 the meaning of section 18-a of the public service law. No later than  
17 August 15, 2018, the commissioner of the department of agriculture and  
18 markets shall submit an accounting of such expenses, including, but not  
19 limited to, expenses in the 2017 -- 2018 fiscal year for personal and  
20 non-personal services and fringe benefits, to the chair of the public  
21 service commission for the chair's review pursuant to the provisions of  
22 section 18-a of the public service law.

23 § 2. Expenditures of moneys appropriated in a chapter of the laws of  
24 2017 to the department of state from the special revenue funds-  
25 other/state operations, miscellaneous special revenue fund-339, public  
26 service account shall be subject to the provisions of this section.  
27 Notwithstanding any other provision of law to the contrary, direct and  
28 indirect expenses relating to the department of state's participation in  
29 general ratemaking proceedings pursuant to section 65 of the public  
30 service law or certification proceedings pursuant to article 7 or 10 of  
31 the public service law, shall be deemed expenses of the department of  
32 public service within the meaning of section 18-a of the public service  
33 law. No later than August 15, 2018, the secretary of state shall submit  
34 an accounting of such expenses, including, but not limited to, expenses  
35 in the 2017 -- 2018 fiscal year for personal and non-personal services  
36 and fringe benefits, to the chair of the public service commission for  
37 the chair's review pursuant to the provisions of section 18-a of the  
38 public service law.

39 § 3. Expenditures of moneys appropriated in a chapter of the laws of  
40 2017 to the office of parks, recreation and historic preservation from  
41 the special revenue funds-other/state operations, miscellaneous special  
42 revenue fund-339, public service account shall be subject to the  
43 provisions of this section. Notwithstanding any other provision of law  
44 to the contrary, direct and indirect expenses relating to the office of  
45 parks, recreation and historic preservation's participation in general  
46 ratemaking proceedings pursuant to section 65 of the public service law  
47 or certification proceedings pursuant to article 7 or 10 of the public  
48 service law, shall be deemed expenses of the department of public  
49 service within the meaning of section 18-a of the public service law. No  
50 later than August 15, 2018, the commissioner of the office of parks,  
51 recreation and historic preservation shall submit an accounting of such  
52 expenses, including, but not limited to, expenses in the 2017 -- 2018  
53 fiscal year for personal and non-personal services and fringe benefits,

1 to the chair of the public service commission for the chair's review  
2 pursuant to the provisions of section 18-a of the public service law.

3 § 4. Expenditures of moneys appropriated in a chapter of the laws of  
4 2017 to the department of environmental conservation from the special  
5 revenue funds-other/state operations, environmental conservation special  
6 revenue fund-301, utility environmental regulation account shall be  
7 subject to the provisions of this section. Notwithstanding any other  
8 provision of law to the contrary, direct and indirect expenses relating  
9 to the department of environmental conservation's participation in state  
10 energy policy proceedings, or certification proceedings pursuant to  
11 article 7 or 10 of the public service law, shall be deemed expenses of  
12 the department of public service within the meaning of section 18-a of  
13 the public service law. No later than August 15, 2018, the commissioner  
14 of the department of environmental conservation shall submit an account-  
15 ing of such expenses, including, but not limited to, expenses in the  
16 2017 -- 2018 fiscal year for personal and non-personal services and  
17 fringe benefits, to the chair of the public service commission for the  
18 chair's review pursuant to the provisions of section 18-a of the public  
19 service law.

20 § 5. Notwithstanding any other law, rule or regulation to the contra-  
21 ry, expenses of the department of health public service education  
22 program incurred pursuant to appropriations from the cable television  
23 account of the state miscellaneous special revenue funds shall be deemed  
24 expenses of the department of public service. No later than August 15,  
25 2018, the commissioner of the department of health shall submit an  
26 accounting of expenses in the 2017 -- 2018 fiscal year to the chair of  
27 the public service commission for the chair's review pursuant to the  
28 provisions of section 217 of the public service law.

29 § 6. This act shall take effect immediately and shall be deemed to  
30 have been in full force and effect on and after April 1, 2017.

31 PART W

32 Section 1. Section 2 of part BB of chapter 58 of the laws of 2012,  
33 amending the public authorities law relating to authorizing the dormito-  
34 ry authority to enter into certain design and construction management  
35 agreements, as amended by section 1 of part S of chapter 58 of the laws  
36 of 2015, is amended to read as follows:

37 § 2. This act shall take effect immediately [~~and shall expire and be~~  
38 ~~deemed repealed April 1, 2017~~].

39 § 2. This act shall take effect immediately.

40 PART X

41 Section 1. Legislative findings. In order to increase the authority of  
42 the superintendent of financial services to respond to the harm posed by  
43 impaired insurers in this state, the legislature finds that it is in the  
44 best interest of the people of this state to enact an administrative  
45 supervision statute. The superintendent of financial services has the  
46 right and responsibility to enforce the insurance law and the authority  
47 to seek redress against any person responsible for the impairment or  
48 insolvency of the insurer, and nothing in this act is intended to  
49 restrict or limit such right, responsibility, or authority.

50 § 2. The insurance law is amended by adding a new section 1123 to read  
51 as follows:

1     § 1123. Administrative supervision. (a) For the purposes of this  
2 subsection, "insurer" shall have the meaning set forth in paragraph one  
3 of subsection (b) of section seven thousand four hundred one of this  
4 chapter, and shall include a licensed United States branch of an alien  
5 insurer entered through this state.

6     (b)(1) The superintendent may issue an order placing a domestic insurer  
7 under administrative supervision if the superintendent determines  
8 that one or more of the conditions set forth in section seven thousand  
9 four hundred two of this chapter exists. Upon such a determination, the  
10 superintendent shall furnish the insurer with a written list of require-  
11 ments to abate the condition or conditions within the time specified in  
12 the order, which shall not exceed one hundred eighty days. The domestic  
13 insurer may challenge the order by requesting an administrative hearing  
14 pursuant to the adjudicatory proceeding rules in article three of the  
15 state administrative procedure act and regulations promulgated by the  
16 superintendent but the order shall remain in full force and effect  
17 during the course of the adjudicatory proceeding. Upon issuance of the  
18 order, the superintendent shall advise such domestic insurer of its  
19 right to request a hearing challenging the order pursuant to the adjudi-  
20 catory proceeding rules in article three of the state administrative  
21 procedure act and regulations promulgated by the superintendent.

22     (2) If, at the end of the period specified in the order, the super-  
23 intendent determines that the condition or conditions that gave rise to  
24 the order still exists or exist, then administrative supervision shall  
25 continue. The insurer may request a hearing to challenge the superinten-  
26 dent's determination to continue administrative supervision.

27     (3) If the superintendent determines that the condition or conditions  
28 that gave rise to administrative supervision no longer exists or exist,  
29 then the superintendent shall release the insurer from supervision.

30     (c) During the period of supervision, the superintendent may prohibit  
31 the insurer from engaging in any of the following activities without the  
32 superintendent's prior approval:

33     (1) disposing of, conveying, or encumbering any of its assets or its  
34 business in force;

35     (2) withdrawing any funds from its bank accounts;

36     (3) lending any of its funds;

37     (4) investing any of its funds;

38     (5) paying any claims;

39     (6) transferring any of its property;

40     (7) incurring any debt, obligation, or liability;

41     (8) merging or consolidating with another company;

42     (9) approving new premiums or renewing any policies;

43     (10) entering into any new reinsurance contract or treaty;

44     (11) terminating, surrendering, forfeiting, converting, or lapsing any  
45 insurance policy, certificate, or contract, except for nonpayment of  
46 premiums due;

47     (12) releasing, paying, or refunding premium deposits, accrued cash or  
48 loan values, unearned premiums, or other reserves on any insurance poli-  
49 cy, certificate, or contract;

50     (13) making any material change in management;

51     (14) increasing salaries and benefits of officers or directors or the  
52 payment of bonuses, dividends, or other payments; or

53     (15) such other activities that the superintendent determines are  
54 necessary to protect policyholders or the people of this state.



(d) The superintendent may appoint as administrative supervisor, at the insurer's expense, one or more persons not employed by any insurer or interested in such insurer, except as a policyholder.

(e)(1) The expenses of administrative supervision pursuant to this subsection shall be borne and paid by the insurer so supervised.

(2) In the event that an insurer becomes subject to a proceeding under article seventy-four of this chapter within one year of the superintendent releasing the insurer from administrative supervision, all accrued and outstanding expenses incurred in connection with administrative supervision shall be treated as actual and necessary costs and expenses of the administration of such proceeding under article seventy-four of this chapter.

(f) All matters pertaining to a proceeding or determination pursuant to this subsection shall be confidential and not subject to subpoena or public inspection under article six of the public officers law or any other statute, except to the extent that the superintendent finds release of information necessary to protect the public.

(g) Nothing in this subsection shall be construed as precluding the superintendent from initiating judicial proceedings to place an insurer in rehabilitation, liquidation, conservation, or dissolution proceedings.

§ 3. Subsection (a) of section 1309 of the insurance law is amended to read as follows:

(a) Whenever the superintendent finds from a financial statement or report on examination that an authorized insurer is unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown by an excess of required reserves and other liabilities over admitted assets, or by its not having sufficient assets to reinsure all outstanding risks with other solvent authorized assuming insurers after paying all accrued claims owed, such insurer shall be deemed insolvent and the superintendent may proceed against it pursuant to the provisions of article seventy-four of this chapter or may place the insurer under administrative supervision pursuant to section one thousand one hundred twenty-three of this chapter.

§ 4. Subsection (a) of section 1310 of the insurance law is amended to read as follows:

(a) Whenever the superintendent finds from a financial statement, or a report on examination, of any domestic stock insurer that ~~[(i)]~~ (1) the admitted assets are less than the aggregate amount of its liabilities and outstanding capital stock or ~~[(ii)]~~ (2) the admitted assets of any such insurer ~~[which]~~ that is required to maintain a minimum surplus to policyholders are less than the aggregate amount of its liabilities and the amount of its minimum surplus to policyholders, ~~[he]~~ the superintendent shall determine the amount of the impairment and order the insurer to eliminate the impairment within such period as ~~[he]~~ the superintendent designates, not more than ninety days from the service of the order. ~~[He]~~ The superintendent may also order the insurer not to issue any new policies while the impairment exists. If the impairment as determined by the provisions of ~~[item (i) hereof]~~ paragraph one of this subsection equals or exceeds twenty-five percent of the insurer's outstanding capital stock, or as determined by the provisions of ~~[item (i) or (ii) hereof]~~ paragraph one or two of this subsection is such that the insurer does not have the minimum capital or minimum surplus to policyholders required by this chapter, and if at the expiration of such designated period, such insurer has not satisfied the superintendent that such impairment has been eliminated, the superintendent may proceed

1 against the insurer pursuant to the provisions of article seventy-four  
2 of this chapter on the ground that its condition is such that its  
3 further transaction of business will be hazardous to its policyholders  
4 or its creditors or the public or the superintendent may place the  
5 insurer under administrative supervision pursuant to section one thou-  
6 sand one hundred twenty-three of this chapter.

7 § 5. Subsection (c) of section 1311 of the insurance law is amended to  
8 read as follows:

9 (c) If the impairment so determined is such that such insurer does not  
10 have the minimum surplus required for item (iii) of subsection (a)  
11 ~~[hereof]~~ of this section, and if when such designated period expires the  
12 insurer has not satisfied the superintendent that such impairment has  
13 been eliminated, the superintendent may proceed against such insurer  
14 pursuant to the provisions of article seventy-four of this chapter on  
15 the ground that its further transaction of business will be hazardous to  
16 its policyholders, its creditors or the public or the superintendent may  
17 place the insurer under administrative supervision pursuant to section  
18 one thousand one hundred twenty-three of this chapter.

19 § 6. Paragraph 2 of subsection (c) of section 1312 of the insurance  
20 law is amended to read as follows:

21 (2) If at the expiration of such designated period such insurer has  
22 not satisfied the superintendent that such impairment has been elimi-  
23 nated, the superintendent may proceed against such insurer pursuant to  
24 the provisions of article seventy-four of this chapter as an insurer  
25 whose condition is such that its further transaction of business in the  
26 United States will be hazardous to its policyholders, its creditors or  
27 the public in the United States or the superintendent may place the  
28 insurer under administrative supervision pursuant to subsection (b) of  
29 section one thousand one hundred twenty-three of this chapter.

30 § 7. This act shall take effect immediately.

31 PART Y

32 Section 1. Subsections (c) and (d) of section 109 of the insurance  
33 law, paragraph 1 of subsection (c) as amended by section 55 of part A of  
34 chapter 62 of the laws of 2011, is amended and a new subsection (e) is  
35 added to read as follows:

36 (c) (1) If the superintendent finds after notice and hearing that any  
37 ~~[authorized]~~ insurer, representative of the insurer, ~~[licensed]~~ insur-  
38 ance agent, ~~[licensed]~~ insurance broker, ~~[licensed]~~ adjuster, or any  
39 other person or entity ~~[licensed, certified, registered, or authorized~~  
40 ~~pursuant]~~ subject to this chapter, has wilfully violated the provisions  
41 of this chapter or any regulation promulgated thereunder, then the  
42 superintendent may order the person or entity to pay to the people of  
43 this state a penalty in a sum not exceeding ~~[one]~~ the greater of (A) ten  
44 thousand dollars for each offense; (B) a multiple of two times the  
45 aggregate damages attributable to the violation; or (C) a multiple of  
46 two times the aggregate economic gain attributable to the violation. The  
47 superintendent may promulgate regulations implementing the terms of this  
48 subsection.

49 (2) Failure to pay such penalty within thirty days after the order,  
50 unless it is suspended by an order of a court of competent jurisdiction,  
51 shall constitute a further violation of the provisions of this chapter.

52 (3) No penalty shall be imposed pursuant to this subsection if a mone-  
53 tary penalty is otherwise provided in this chapter.

(d) (1) The superintendent may maintain a civil action in the name of the people of the state to recover a judgment for a money penalty imposed by law or to enforce any order issued by the superintendent for the violation of any provision of this chapter.

(2) Notwithstanding any law to the contrary, the superintendent may, in his or her sole discretion, either (A) prosecute any such action and retain charge and control of the action; or (B) refer such action to the department of law for prosecution.

(e) Any person or entity that is required by this chapter to be licensed, certified, registered, or authorized shall be subject to the laws of this chapter and the penalties contained herein as if the person or entity was so licensed, certified, registered, or authorized, even if the person or entity does not possess the required license, certification, registration, or authorization.

§ 2. Section 44 of the banking law is amended by adding two new subdivisions 10 and 11 to read as follows:

10. The superintendent may maintain a civil action in the name of the people of the state to recover a judgement for a money penalty imposed by law or to enforce any order issued by the superintendent for the violation of any provision of this chapter. Notwithstanding any law to the contrary, the superintendent may, in his or her discretion, either (a) prosecute any such action and retain charge and control of the action; or (b) refer such action to the department of law for prosecution.

11. Any person or entity who engages in activity that is regulated in this chapter without being licensed, certified, registered, authorized, chartered, accredited, incorporated or otherwise obtaining any permission of the superintendent required by this chapter before engaging in such activity shall be subject to the laws of this chapter and the penalties contained herein as if the person or entity was so licensed, certified, registered, authorized, chartered, accredited, incorporated, or otherwise approved by the superintendent.

§ 3. Subsection (a) of section 309 of the financial services law is amended and a new subsection (c) is added to read as follows:

(a) In addition to such other remedies as are provided under this chapter, the superintendent may maintain and prosecute an action against any person subject to this chapter, the insurance law or the banking law, or the person's officers, directors, trustees or agents, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this chapter, the insurance law or the banking law. The superintendent may commence such action against any person or entity that is required by this chapter, the banking law, or the insurance law to be licensed, certified, registered, authorized, chartered, accredited, or incorporated, as if the person or entity was so licensed, certified, registered, authorized, chartered, accredited, or incorporated, even if the person or entity does not possess the required license, certification, registration, authorization, charter, accreditation, or incorporation.

(c) Notwithstanding any law to the contrary, the superintendent may, in his or her discretion, either (i) prosecute any such action and retain charge and control of the action; or (ii) refer such action to the department of law for prosecution.

§ 4. This act shall take effect immediately.

1 Section 1. The banking law is amended by adding a new article 14-A to  
2 read as follows:

3 ARTICLE XIV-A  
4 STUDENT LOAN SERVICERS

5 Section 710. Definitions.

6 711. Licensing.

7 712. Application for a student loan servicer license; fees.

8 713. Application process to receive license to engage in the  
9 business of student loan servicing.

10 714. Changes in officers and directors.

11 715. Changes in control.

12 716. Grounds for suspension or revocation of license.

13 717. Books and records; reports and electronic filing.

14 718. Rules and regulations.

15 719. Prohibited practices.

16 720. Servicing student loans without a license.

17 721. Responsibilities.

18 722. Examinations.

19 723. Penalties for violation of this article.

20 724. Severability of provisions.

21 725. Compliance with other laws.

22 § 710. Definitions. 1. "Applicant" shall mean any person applying for  
23 a license to be a student loan servicer.

24 2. "Borrower" shall mean any resident of this state who has received a  
25 student loan or agreed to pay a student loan or any person who shares  
26 responsibility with such resident for repaying a student loan.

27 3. "Borrower benefit" shall mean an incentive offered to a borrower in  
28 connection with the origination of a student loan, including but not  
29 limited to an interest rate reduction, principal rebate, fee waiver or  
30 rebate, loan cancellation, or cosigner release.

31 4. "Exempt organization" shall mean any banking organization, foreign  
32 banking corporation, national bank, federal savings association, federal  
33 credit union, or any bank, trust company, savings bank, savings and loan  
34 association, or credit union organized under the laws of any other  
35 state, or any instrumentality created by the United States or any state  
36 with the power to service student loans, or any person exempted by the  
37 superintendent of financial services pursuant to regulations promulgated  
38 in accordance with this article.

39 5. "Person" shall mean any individual, association, corporation,  
40 limited liability company, partnership, trust, unincorporated organiza-  
41 tion, government or political subdivision of a government, and any other  
42 entity.

43 6. "Servicer" or "student loan servicer" shall mean a person licensed  
44 pursuant to section seven hundred eleven of this article to engage in  
45 the business of servicing any student loan of a borrower.

46 7. "Servicing" shall mean:

47 (a) receiving any payment from a borrower pursuant to the terms of any  
48 student loan;

49 (b) applying any payment to a borrower's account pursuant to the terms  
50 of a student loan or the contract governing the servicing of any such  
51 loan;

52 (c) providing any notification of amounts owed on a student loan by or  
53 on account of any borrower;

54 (d) during a period when a borrower is not required to make a payment  
55 on a student loan, maintaining account records for the student loan and

1 communicating with the borrower regarding the student loan on behalf of  
2 the owner of the student loan promissory note;

3 (e) interacting with a borrower with respect to or regarding any  
4 attempt to avoid default on the borrower's student loan, or facilitating  
5 the activities described in paragraph (a) or (b) of this subdivision; or

6 (f) performing other administrative services with respect to a borrow-  
7 er's student loan.

8 8. "Student loan" shall mean any loan to a borrower to finance postse-  
9 condary education or expenses related to postsecondary education.

10 § 711. Licensing. 1. No person shall engage in the business of servic-  
11 ing student loans owed by one or more borrowers residing in this state  
12 without first being licensed by the superintendent as a student loan  
13 servicer in accordance with this article and such regulations as may be  
14 prescribed by the superintendent.

15 2. The licensing provisions of this subdivision shall not apply to any  
16 exempt organization, or any person that shall be exempted in accordance  
17 with regulations prescribed by the superintendent hereunder; provided  
18 that such exempt organization notifies the superintendent that the  
19 exempt organization is acting as a student loan servicer in this state  
20 and complies with sections seven hundred nineteen and seven hundred  
21 twenty-one of this article and any regulation applicable to student loan  
22 servicers promulgated by the superintendent.

23 § 712. Application for a student loan servicer license; fees. 1. The  
24 application for a license to be a student loan servicer shall be in  
25 writing, under oath, and in the form prescribed by the superintendent.  
26 Notwithstanding article three of the state technology law or any other  
27 law to the contrary, the superintendent may require that an application  
28 for a license or any other submission or application for approval as may  
29 be required by this article be made or executed by electronic means if  
30 he or she deems it necessary to ensure the efficient and effective  
31 administration of this article. The application shall include a  
32 description of the activities of the applicant, in such detail and for  
33 such periods as the superintendent may require, including:

34 (a) an affirmation of financial solvency noting such capitalization  
35 requirements as may be required by the superintendent, and access to  
36 such credit as may be required by the superintendent;

37 (b) a financial statement prepared by a certified public accountant,  
38 the accuracy of which is sworn to under oath before a notary public by  
39 an officer or other representative of the applicant who is authorized to  
40 execute such documents;

41 (c) the fingerprints of the applicant, or its members, officers, part-  
42 ners, directors and principals as may be appropriate, which may be  
43 submitted to the division of criminal justice services and the federal  
44 bureau of investigation for state and national criminal history record  
45 checks;

46 (d) an affirmation that the applicant, or its members, officers, part-  
47 ners, directors and principals as may be appropriate, are at least twen-  
48 ty-one years of age;

49 (e) information as to the character, fitness, financial and business  
50 responsibility, background and experiences of the applicant, or its  
51 members, officers, partners, directors and principals as may be appro-  
52 priate;

53 (f) any additional detail or information required by the superinten-  
54 dent.



1     2. An application to become a student loan servicer or any application  
2 with respect to a student loan servicer shall be accompanied by a fee as  
3 prescribed pursuant to section eighteen-a of this chapter.

4     § 713. Application process to receive license to engage in the busi-  
5 ness of student loan servicing. 1. Upon the filing of an application for  
6 a license, if the superintendent shall find that the financial responsi-  
7 bility, experience, character, and general fitness of the applicant and,  
8 if applicable, the members, officers, partners, directors and principals  
9 of the applicant are such as to command the confidence of the community  
10 and to warrant belief that the business will be operated honestly, fair-  
11 ly, and efficiently within the purpose of this article, the superinten-  
12 dent shall thereupon issue a license in duplicate to engage in the busi-  
13 ness of servicing student loans described in section seven hundred ten  
14 of this article in accordance with the provisions of this article. If  
15 the superintendent shall not so find, the superintendent shall not issue  
16 a license, and the superintendent shall so notify the applicant. The  
17 superintendent shall transmit one copy of a license to the applicant and  
18 file another copy in the office of the department of financial services.  
19 Upon receipt of such license, a student loan servicer shall be author-  
20 ized to engage in the business of servicing student loans in accordance  
21 with the provisions of this article. Such license shall remain in full  
22 force and effect until it is surrendered by the servicer or revoked or  
23 suspended as hereinafter provided.

24     2. The superintendent may refuse to issue a license pursuant to this  
25 article if he or she shall find that the applicant, or any person who is  
26 a director, officer, partner, agent, employee, member, substantial  
27 stockholder of the applicant, consultant or person having a relationship  
28 with the applicant similar to a consultant:

29     (a) has been convicted of a crime involving an activity which is a  
30 felony under this chapter or under article one hundred fifty-five, one  
31 hundred seventy, one hundred seventy-five, one hundred seventy-six, one  
32 hundred eighty, one hundred eighty-five, one hundred eighty-seven, one  
33 hundred ninety, two hundred, two hundred ten or four hundred seventy of  
34 the penal law or any comparable felony under the laws of any other state  
35 or the United States, provided that such crime would be a felony if  
36 committed and prosecuted under the laws of this state;

37     (b) has had a license or registration revoked by the superintendent or  
38 any other regulator or jurisdiction;

39     (c) has been an officer, director, partner, member or substantial  
40 stockholder of an entity which has had a license or registration revoked  
41 by the superintendent or any other regulator or jurisdiction; or

42     (d) has been an agent, employee, officer, director, partner or member  
43 of an entity, or a consultant to, or person having had a similar  
44 relationship with, any entity which has had a license or registration  
45 revoked by the superintendent where such person shall have been found by  
46 the superintendent to bear responsibility in connection with the revoca-  
47 tion.

48     3. The term "substantial stockholder", as used in this subdivision,  
49 shall be deemed to refer to a person owning or controlling directly or  
50 indirectly ten per centum or more of the total outstanding stock of a  
51 corporation.

52     § 714. Changes in officers and directors. Upon any change of any of  
53 the executive officers, directors, partners or members of any student  
54 loan servicer, the student loan servicer shall submit to the superinten-  
55 dent the name, address, and occupation of each new officer, director,

1 partner or member, and provide such other information as the superinten-  
2 dent may require.

3 § 715. Changes in control. 1. It shall be unlawful, except with the  
4 prior approval of the superintendent, for any action to be taken which  
5 results in a change of control of the business of a student loan servi-  
6 cer. Prior to any change of control, the person desirous of acquiring  
7 control of the business of a student loan servicer shall make written  
8 application to the superintendent and pay an investigation fee as  
9 prescribed pursuant to section eighteen-a of this chapter to the super-  
10 intendent. The application shall contain such information as the super-  
11 intendent, by rule or regulation, may prescribe as necessary or appro-  
12 priate for the purpose of making the determination required by  
13 subdivision two of this section. Such information shall include, but not  
14 be limited to, the information and other material required for a student  
15 loan servicer by subdivision one of section seven hundred twelve of this  
16 article.

17 2. The superintendent shall approve or disapprove the proposed change  
18 of control of a student loan servicer in accordance with the provisions  
19 of section seven hundred thirteen of this article.

20 3. For a period of six months from the date of qualification thereof  
21 and for such additional period of time as the superintendent may  
22 prescribe, in writing, the provisions of subdivisions one and two of  
23 this section shall not apply to a transfer of control by operation of  
24 law to the legal representative, as hereinafter defined, of one who has  
25 control of a student loan servicer. Thereafter, such legal represen-  
26 tative shall comply with the provisions of subdivisions one and two of  
27 this section. The provisions of subdivisions one and two of this section  
28 shall be applicable to an application made under this section by a legal  
29 representative. The term "legal representative", for the purposes of  
30 this subdivision, shall mean a person duly appointed by a court of  
31 competent jurisdiction to act as executor, administrator, trustee,  
32 committee, conservator or receiver, including a person who succeeds a  
33 legal representative and a person acting in an ancillary capacity there-  
34 to in accordance with the provisions of such court appointment.

35 4. As used in this section the term "control" means the possession,  
36 directly or indirectly, of the power to direct or cause the direction of  
37 the management and policies of a student loan servicer, whether through  
38 the ownership of voting stock of such student loan servicer, the owner-  
39 ship of voting stock of any person which possesses such power or other-  
40 wise. Control shall be presumed to exist if any person, directly or  
41 indirectly, owns, controls or holds with power to vote ten per centum or  
42 more of the voting stock of any student loan servicer or of any person  
43 which owns, controls or holds with power to vote ten per centum or more  
44 of the voting stock of any student loan servicer, but no person shall be  
45 deemed to control a student loan servicer solely by reason of being an  
46 officer or director of such student loan servicer. The superintendent  
47 may in his discretion, upon the application of a student loan servicer  
48 or any person who, directly or indirectly, owns, controls or holds with  
49 power to vote or seeks to own, control or hold with power to vote any  
50 voting stock of such student loan servicer, determine whether or not the  
51 ownership, control or holding of such voting stock constitutes or would  
52 constitute control of such student loan servicer for purposes of this  
53 section.

54 § 716. Grounds for suspension or revocation of license. 1. The super-  
55 intendent may revoke any license to engage in the business of a student

1 loan servicer issued pursuant to this article if he or she shall find  
2 that:

3 (a) a servicer has violated any provision of this article, any rule or  
4 regulation promulgated by the superintendent under and within the  
5 authority of this article, or any other applicable law;

6 (b) any fact or condition exists which, if it had existed at the time  
7 of the original application for such license, would have warranted the  
8 superintendent refusing originally to issue such license;

9 (c) a servicer does not cooperate with an examination or investigation  
10 by the superintendent;

11 (d) a servicer engages in fraud, intentional misrepresentation, or  
12 gross negligence in servicing a student loan;

13 (e) the competence, experience, character, or general fitness of the  
14 servicer, an individual controlling, directly or indirectly, ten percent  
15 or more of the outstanding interests, or any person responsible for  
16 servicing a student loan for the servicer indicates that it is not in  
17 the public interest to permit the servicer to continue servicing student  
18 loans;

19 (f) the servicer engages in unsafe or injurious practice;

20 (g) the servicer is insolvent, suspends payment of its obligations, or  
21 makes a general assignment for the benefit of its creditors; or

22 (h) a servicer has violated the laws of this state, any other state  
23 law or any federal law involving fraudulent or dishonest dealing, or a  
24 final judgment has been entered against a student loan servicer in a  
25 civil action upon grounds of fraud, misrepresentation or deceit.

26 2. As a part of his or her determination regarding suspension or revo-  
27 cation, the superintendent is authorized to require the fingerprinting  
28 of any person, officer, director, partner, member or employee of a  
29 student loan servicer. Such fingerprints shall be submitted to the divi-  
30 sion of criminal justice services for a state criminal history record  
31 check and may be submitted to the federal bureau of investigation for a  
32 national criminal history record check.

33 3. The superintendent may, on good cause shown, or where there is a  
34 substantial risk of public harm, suspend any license for a period not  
35 exceeding thirty days, pending investigation. "Good cause", as used in  
36 this subdivision, shall exist when a student loan servicer has defaulted  
37 or is likely to default in performing its financial engagements or  
38 engages in dishonest or inequitable practices which may cause substan-  
39 tial harm to the persons afforded the protection of this article.

40 4. Except as provided in subdivision three of this section, no license  
41 shall be revoked or suspended except after notice and a hearing thereon.  
42 Any order of suspension issued after notice and a hearing may include as  
43 a condition of reinstatement that the student loan servicer make resti-  
44 tution to consumers of fees or other charges which have been improperly  
45 charged or collected, including but not limited to by allocating  
46 payments contrary to a borrower's direction or in a manner that fails to  
47 help a borrower avoid default, as determined by the superintendent. Any  
48 hearing held pursuant to the provisions of this section shall be  
49 noticed, conducted and administered in compliance with the state admin-  
50 istrative procedure act.

51 5. Any student loan servicer may surrender any license by delivering  
52 to the superintendent written notice that the student loan servicer  
53 thereby surrenders such license, but such surrender shall not affect the  
54 servicer's civil or criminal liability for acts committed prior to the  
55 surrender. If such surrender is made after the issuance by the super-  
56 intendent of a statement of charges and notice of hearing, the super-

1 intendent may proceed against the servicer as if the surrender had not  
2 taken place.

3 6. No revocation, suspension, or surrender of any license shall impair  
4 or affect the obligation of any pre-existing lawful contract between the  
5 student loan servicer and any person, including the department of finan-  
6 cial services.

7 7. Every license issued pursuant to this article shall remain in full  
8 force and effect until the same shall have been surrendered, revoked or  
9 suspended in accordance with any other provisions of this article.

10 8. Whenever the superintendent shall revoke or suspend a license  
11 issued pursuant to this article, he or she shall forthwith execute in  
12 duplicate a written order to that effect. The superintendent shall file  
13 one copy of the order in the office of the department of financial  
14 services and shall forthwith serve the other copy upon the student loan  
15 servicer. Any such order may be reviewed in the manner provided by arti-  
16 cle seventy-eight of the civil practice law and rules. An application  
17 for review as authorized by this section must be made within thirty days  
18 from the date of the order of suspension or revocation.

19 § 717. Books and records; reports and electronic filing. 1. Each  
20 student loan servicer and exempt organization shall keep and use in its  
21 business such books, accounts and records as will enable the superinten-  
22 dent to determine whether the servicer or exempt organization is comply-  
23 ing with the provisions of this article and with the rules and regu-  
24 lations lawfully made by the superintendent. Every servicer and exempt  
25 organization shall preserve such books, accounts, and records, for at  
26 least three years.

27 2. (a) Each student loan servicer shall annually, on or before a date  
28 to be determined by the superintendent, file a report with the super-  
29 intendent giving such information as the superintendent may require  
30 concerning the business and operations during the preceding calendar  
31 year of such servicer under authority of this article. Such report shall  
32 be subscribed and affirmed as true by the servicer under the penalties  
33 of perjury and shall be in the form prescribed by the superintendent.

34 (b) In addition to annual reports, the superintendent may require such  
35 additional regular or special reports as he or she may deem necessary to  
36 the proper supervision of student loan servicers under this article.  
37 Such additional reports shall be subscribed and affirmed as true by the  
38 servicer under the penalties of perjury and shall be in the form  
39 prescribed by the superintendent.

40 3. Notwithstanding article three of the state technology law or any  
41 other law to the contrary, the superintendent may require that any  
42 submission or approval as may be required by the superintendent be made  
43 or executed by electronic means if he or she deems it necessary to  
44 ensure the efficient administration of this article.

45 § 718. Rules and regulations. 1. In addition to such powers as may  
46 otherwise be prescribed by this chapter, the superintendent is hereby  
47 authorized and empowered to promulgate such rules and regulations as may  
48 in the judgment of the superintendent be consistent with the purposes of  
49 this article, or appropriate for the effective administration of this  
50 article, including, but not limited to:

51 (a) Such rules and regulations in connection with the activities of  
52 student loan servicers and exempt organizations as may be necessary and  
53 appropriate for the protection of borrowers in this state.

54 (b) Such rules and regulations as may be necessary and appropriate to  
55 define unfair, deceptive or abusive acts or practices in connection with

1 the activities of student loan servicers and exempt organizations in  
2 servicing student loans.

3 (c) Such rules and regulations as may define the terms used in this  
4 article and as may be necessary and appropriate to interpret and imple-  
5 ment the provisions of this article.

6 (d) Such rules and regulations as may be necessary for the enforcement  
7 of this article.

8 2. The superintendent is hereby authorized and empowered to make such  
9 specific rulings, demands and findings as the superintendent may deem  
10 necessary for the proper conduct of the student loan servicing industry.

11 § 719. Prohibited practices. No student loan servicer shall:

12 1. Directly or indirectly employ any scheme, device or artifice to  
13 defraud or mislead a borrower.

14 2. Engage in any unfair, deceptive or predatory act or practice toward  
15 any person or misrepresent or omit any material information in  
16 connection with the servicing of a student loan, including, but not  
17 limited to, misrepresenting the amount, nature or terms of any fee or  
18 payment due or claimed to be due on a student loan, the terms and condi-  
19 tions of the loan agreement or the borrower's obligations under the  
20 loan.

21 3. Misapply payments to the outstanding balance of any student loan or  
22 to any related interest or fees.

23 4. Provide inaccurate information to a consumer reporting agency.

24 5. Refuse to communicate with an authorized representative of the  
25 borrower who provides a written authorization signed by the borrower,  
26 provided that the servicer may adopt procedures reasonably related to  
27 verifying that the representative is in fact authorized to act on behalf  
28 of the borrower.

29 6. Make any false statement or make any omission of a material fact in  
30 connection with any information or reports filed with a governmental  
31 agency or in connection with any investigation conducted by the super-  
32 intendent or another governmental agency.

33 § 720. Servicing student loans without a license. 1. Whenever, in the  
34 opinion of the superintendent, a person is engaged in the business of  
35 servicing student loans, either actually or through subterfuge, without  
36 a license from the superintendent, the superintendent may order that  
37 person to desist and refrain from engaging in the business of servicing  
38 student loans in the state. If, within thirty days after an order is  
39 served, a request for a hearing is filed in writing and the hearing is  
40 not held within sixty days of the filing, the order shall be rescinded.

41 2. The superintendent may maintain a civil action to enforce any order  
42 issued by the superintendent pursuant to this section.

43 3. This section shall not apply to exempt organizations.

44 § 721. Responsibilities. 1. If a student loan servicer regularly  
45 reports information to a consumer reporting agency, the servicer shall  
46 accurately report a borrower's payment performance to at least one  
47 consumer reporting agency that compiles and maintains files on consumers  
48 on a nationwide basis as defined in Section 603(p) of the federal Fair  
49 Credit Reporting Act (15 U.S.C. Sec. 1681a(p)), upon acceptance as a  
50 data furnisher by that consumer reporting agency.

51 2. (a) Except as provided in federal law or required by a student loan  
52 agreement, a student loan servicer shall inquire of a borrower how to  
53 apply a borrower's nonconforming payment. A borrower's direction on how  
54 to apply a nonconforming payment shall remain in effect for any future  
55 nonconforming payment during the term of a student loan until the  
56 borrower provides different directions.



1 (b) For purposes of this subdivision, "nonconforming payment" shall  
2 mean a payment that is either more or less than the borrower's required  
3 student loan payment.

4 3. (a) If the sale, assignment, or other transfer of the servicing of  
5 a student loan results in a change in the identity of the person to whom  
6 the borrower is required to send subsequent payments or direct any  
7 communications concerning the student loan, a student loan servicer  
8 shall transfer all information regarding a borrower, a borrower's  
9 account, and a borrower's student loan, including but not limited to the  
10 borrower's repayment status and any borrower benefits associated with  
11 the borrower's student loan, to the new student loan servicer servicing  
12 the borrower's student loan within forty-five days.

13 (b) A student loan servicer shall adopt policies and procedures to  
14 verify that it has received all information regarding a borrower, a  
15 borrower's account, and a borrower's student loan, including but not  
16 limited to the borrower's repayment status and any borrower benefits  
17 associated with the borrower's student loan, when the servicer obtains  
18 the right to service a student loan.

19 4. If a student loan servicer sells, assigns, or otherwise transfers  
20 the servicing of a student loan to a new servicer, the sale, assignment  
21 or other transfer shall be completed at least seven days before the  
22 borrower's next payment is due.

23 5. (a) A student loan servicer that sells, assigns, or otherwise  
24 transfers the servicing of a student loan shall require as a condition  
25 of such sale, assignment or other transfer that the new student loan  
26 servicer shall honor all borrower benefits originally represented as  
27 being available to a borrower during the repayment of the student loan  
28 and the possibility of such benefits, including any benefits that were  
29 represented as being available but for which the borrower had not yet  
30 qualified.

31 (b) A student loan servicer that obtains the right to service a  
32 student loan shall honor all borrower benefits originally represented as  
33 being available to a borrower during the repayment of the student loan  
34 and the possibility of such benefits, including any benefits that were  
35 represented as being available but for which the borrower had not yet  
36 qualified.

37 6. A student loan servicer shall respond within thirty days after  
38 receipt to a written inquiry from a borrower or a borrower's represen-  
39 tative.

40 7. A student loan servicer shall preserve records of each student loan  
41 and all communications with borrowers for not less than two years  
42 following the final payment on a student loan or the sale, assignment or  
43 other transfer of the servicing of a student loan, whichever occurs  
44 first, or such longer period as may be required by any other provision  
45 of law.

46 § 722. Examinations. 1. The superintendent may at any time, and as  
47 often as he or she may determine, either personally or by a person duly  
48 designated by the superintendent, investigate the business and examine  
49 the books, accounts, records, and files used therein of every student  
50 loan servicer. For that purpose the superintendent and his or her duly  
51 designated representative shall have free access to the offices and  
52 places of business, books, accounts, papers, records, files, safes and  
53 vaults of all student loan servicers. The superintendent and any person  
54 duly designated by him or her shall have the authority to require the  
55 attendance of and to examine under oath all persons whose testimony he  
56 or she may require relative to such business.

1 2. No person subject to investigation or examination under this  
2 section may knowingly withhold, abstract, remove, mutilate, destroy or  
3 secrete any books, records, computer records or other information.

4 3. The expenses incurred in making any examination pursuant to this  
5 section shall be assessed against and paid by the student loan servicer  
6 so examined, except that traveling and subsistence expenses so incurred  
7 shall be charged against and paid by servicers in such proportions as  
8 the superintendent shall deem just and reasonable, and such propor-  
9 tionate charges shall be added to the assessment of the other expenses  
10 incurred upon each examination. Upon written notice by the superinten-  
11 dent of the total amount of such assessment, the servicer shall become  
12 liable for and shall pay such assessment to the superintendent.

13 4. In any hearing in which a department employee acting under authori-  
14 ty of this chapter is available for cross-examination, any official  
15 written report, worksheet, other related papers, or duly certified copy  
16 thereof, compiled, prepared, drafted, or otherwise made by such depart-  
17 ment employee, after being duly authenticated by the employee, may be  
18 admitted as competent evidence upon the oath of the employee that such  
19 worksheet, investigative report, or other related documents were  
20 prepared as a result of an examination of the books and records of a  
21 servicer or other person, conducted pursuant to the authority of this  
22 chapter.

23 5. Unless otherwise exempt pursuant to subdivision two of section  
24 seven hundred eleven of this article, affiliates of a student loan  
25 servicer shall be subject to examination by the superintendent on the  
26 same terms as the servicer, but only when reports from, or examination  
27 of, a servicer provides evidence of unlawful activity between a servicer  
28 and affiliate benefitting, affecting, or arising from the activities  
29 regulated by this article.

30 § 723. Penalties for violation of this article. 1. In addition to such  
31 penalties as may otherwise be applicable by law, the superintendent may,  
32 after notice and hearing, require any person found violating the  
33 provisions of this article or the rules or regulations promulgated here-  
34 under to pay to the people of this state an additional penalty for each  
35 violation of the article or any regulation or policy promulgated here-  
36 under a sum not to exceed an amount as determined pursuant to section  
37 forty-four of this chapter for each such violation.

38 2. Nothing in this article shall limit any statutory or common-law  
39 right of any person to bring any action in any court for any act, or the  
40 right of the state to punish any person for any violation of any law.

41 § 724. Severability of provisions. If any provision of this article,  
42 or the application of such provision to any person or circumstance,  
43 shall be held invalid, illegal or unenforceable, the remainder of the  
44 article, and the application of such provision to persons or circum-  
45 stances other than those as to which it is held invalid, illegal or  
46 unenforceable, shall not be affected thereby.

47 § 725. Compliance with other laws. 1. Student loan servicers shall  
48 engage in the business of servicing student loans in conformity with the  
49 provisions of this chapter, such rules and regulations as may be promul-  
50 gated by the superintendent thereunder and all applicable federal laws  
51 and the rules and regulations promulgated thereunder.

52 2. Nothing in this section shall be construed to limit any otherwise  
53 applicable state or federal law or regulations.

54 § 2. Subdivision 10 of section 36 of the banking law, as amended by  
55 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 regulatory 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

1 appear before him or her, at a time and place fixed in said order, to  
2 present an explanation of such apparent violation.

3 2. To discontinue unauthorized or unsafe and unsound practices. When-  
4 ever it shall appear to the superintendent that any banking organiza-  
5 tion, bank holding company, registered mortgage broker, licensed mort-  
6 gage banker, licensed student loan servicer, registered mortgage loan  
7 servicer, licensed mortgage loan originator, licensed lender, licensed  
8 casher of checks, licensed sales finance company, licensed insurance  
9 premium finance agency, licensed transmitter of money, licensed budget  
10 planner, out-of-state state bank that maintains a branch or branches or  
11 representative or other offices in this state, or foreign banking corpo-  
12 ration licensed by the superintendent to do business in this state is  
13 conducting business in an unauthorized or unsafe and unsound manner, he  
14 or she may, in his or her discretion, issue an order directing the  
15 discontinuance of such unauthorized or unsafe and unsound practices, and  
16 fixing a time and place at which such banking organization, bank holding  
17 company, registered mortgage broker, licensed mortgage banker, licensed  
18 student loan servicer, registered mortgage loan servicer, licensed mort-  
19 gage loan originator, licensed lender, licensed casher of checks,  
20 licensed sales finance company, licensed insurance premium finance agen-  
21 cy, licensed transmitter of money, licensed budget planner, out-of-state  
22 state bank that maintains a branch or branches or representative or  
23 other offices in this state, or foreign banking corporation may volun-  
24 tarily appear before him or her to present any explanation in defense of  
25 the practices directed in said order to be discontinued.

26 3. To make good impairment of capital or to ensure compliance with  
27 financial requirements. Whenever it shall appear to the superintendent  
28 that the capital or capital stock of any banking organization, bank  
29 holding company or any subsidiary thereof which is organized, licensed  
30 or registered pursuant to this chapter, is impaired, or the financial  
31 requirements imposed by subdivision one of section two hundred two-b of  
32 this chapter or any regulation of the superintendent on any branch or  
33 agency of a foreign banking corporation or the financial requirements  
34 imposed by this chapter or any regulation of the superintendent on any  
35 licensed lender, registered mortgage broker, licensed mortgage banker,  
36 licensed student loan servicer, licensed casher of checks, licensed  
37 sales finance company, licensed insurance premium finance agency,  
38 licensed transmitter of money, licensed budget planner or private banker  
39 are not satisfied, the superintendent may, in the superintendent's  
40 discretion, issue an order directing that such banking organization,  
41 bank holding company, branch or agency of a foreign banking corporation,  
42 registered mortgage broker, licensed mortgage banker, licensed student  
43 loan servicer, licensed lender, licensed casher of checks, licensed  
44 sales finance company, licensed insurance premium finance agency,  
45 licensed transmitter of money, licensed budget planner, or private bank-  
46 er make good such deficiency forthwith or within a time specified in  
47 such order.

48 5. To keep books and accounts as prescribed. Whenever it shall appear  
49 to the superintendent that any banking organization, bank holding compa-  
50 ny, registered mortgage broker, licensed mortgage banker, licensed  
51 student loan servicer, registered mortgage loan servicer, licensed mort-  
52 gage loan originator, licensed lender, licensed casher of checks,  
53 licensed sales finance company, licensed insurance premium finance agen-  
54 cy, licensed transmitter of money, licensed budget planner, agency or  
55 branch of a foreign banking corporation licensed by the superintendent  
56 to do business in this state, does not keep its books and accounts in

1 such manner as to enable him or her to readily ascertain its true condi-  
2 tion, he or she may, in his or her discretion, issue an order requiring  
3 such banking organization, bank holding company, registered mortgage  
4 broker, licensed mortgage banker, licensed student loan servicer, regis-  
5 tered mortgage loan servicer, licensed mortgage loan originator,  
6 licensed lender, licensed casher of checks, licensed sales finance  
7 company, licensed insurance premium finance agency, licensed transmitter  
8 of money, licensed budget planner, or foreign banking corporation, or  
9 the officers or agents thereof, or any of them, to open and keep such  
10 books or accounts as he or she may, in his or her discretion, determine  
11 and prescribe for the purpose of keeping accurate and convenient records  
12 of its transactions and accounts.

13 § 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,  
14 as amended by chapter 155 of the laws of 2012, is amended to read as  
15 follows:

16 (a) Without limiting any power granted to the superintendent under any  
17 other provision of this chapter, the superintendent may, in a proceeding  
18 after notice and a hearing, require any safe deposit company, licensed  
19 lender, licensed casher of checks, licensed sales finance company,  
20 licensed insurance premium finance agency, licensed transmitter of  
21 money, licensed mortgage banker, licensed student loan servicer, regis-  
22 tered mortgage broker, licensed mortgage loan originator, registered  
23 mortgage loan servicer or licensed budget planner to pay to the people  
24 of this state a penalty for any violation of this chapter, any regu-  
25 lation promulgated thereunder, any final or temporary order issued  
26 pursuant to section thirty-nine of this article, any condition imposed  
27 in writing by the superintendent in connection with the grant of any  
28 application or request, or any written agreement entered into with the  
29 superintendent.

30 § 5. This act shall take effect on the one hundred eightieth day after  
31 it shall have become a law.

32 PART AA

33 Section 1. The banking law is amended by adding a new section 4-d to  
34 read as follows:

35 § 4-d. Protecting vulnerable adults from financial exploitation. 1.  
36 Definitions. As used in this section:

37 (a) "Banking institution" means any bank, trust company, savings bank,  
38 savings and loan association, credit union, or branch of a foreign bank-  
39 ing corporation, which is chartered, organized or licensed under the  
40 laws of this state or any other state or the United States, and, in the  
41 ordinary course of business takes deposit accounts in this state.

42 (b) "Vulnerable adult" means an individual who, because of mental  
43 and/or physical impairment is potentially unable to manage his or her  
44 own resources or protect himself or herself from financial exploitation.

45 (c) "Financial exploitation" means: (i) the improper taking, withhold-  
46 ing, appropriation, or use of a vulnerable adult's money, assets, or  
47 property; or (ii) any act or omission by a person, including through the  
48 use of a power of attorney, guardianship, or any other authority regard-  
49 ing a vulnerable adult to: (A) obtain control, through deception, intim-  
50 idation or undue influence, over the vulnerable adult's money, assets,  
51 or property or (B) convert the vulnerable adult's money, assets, or  
52 property.



1 (d) "Transaction hold" means a delay in the completion of one or more  
2 financial transactions pending an investigation by a banking institu-  
3 tion, adult protective services, or a law enforcement agency.

4 (e) "Adult protective services" means the division of the New York  
5 City Human Resources Administration and each county's department of  
6 human services or department of social services responsible for provid-  
7 ing adult protective services pursuant to section four hundred seventy-  
8 three of the social services law.

9 (f) "Law enforcement agency" means any agency, including the financial  
10 frauds and consumer protection unit of the department of financial  
11 services, which is empowered by law to conduct an investigation or to  
12 make an arrest for a felony, and any agency which is authorized by law  
13 to prosecute or participate in the prosecution of a felony.

14 2. Application of transaction hold. (a) If a banking institution  
15 reasonably believes: (i) that financial exploitation of a vulnerable  
16 adult may have occurred, may have been attempted, or is being attempted;  
17 and (ii) that the placement of a transaction hold may be necessary to  
18 protect a vulnerable adult's money, assets, or property from financial  
19 exploitation, then the banking institution may, at its discretion, apply  
20 a transaction hold on the account of a vulnerable adult, the account on  
21 which a vulnerable adult is a beneficiary, including a trust or guardi-  
22 anship account, or the account of a person who is reasonably believed by  
23 the banking institution to be engaging in the financial exploitation of  
24 a vulnerable adult.

25 (b) A banking institution may also apply a transaction hold on the  
26 account of a vulnerable adult, the account on which a vulnerable adult  
27 is a beneficiary, including a trust or guardianship account, or the  
28 account of a person who is reasonably believed by the banking institu-  
29 tion to be engaging in the financial exploitation of a vulnerable adult,  
30 if: (i) adult protective services or a law enforcement agency provides  
31 information to the banking institution establishing a reasonable basis  
32 to believe that financial exploitation of a vulnerable adult may have  
33 occurred, may have been attempted, or is being attempted; and (ii) the  
34 placement of a transaction hold may be necessary to protect a vulnerable  
35 adult's money, assets, or property from financial exploitation.

36 (c) A banking institution that applies a transaction hold shall:

37 (i) make a reasonable effort to provide notice, orally or in writing,  
38 to all parties authorized to transact business on the account on which a  
39 transaction hold was placed within two business days of when the trans-  
40 action hold was placed;

41 (ii) immediately, but no later than one business day after the trans-  
42 action hold is placed, report the transaction hold, including the basis  
43 for the banking institution's belief that the financial exploitation of a  
44 vulnerable adult may have occurred, may have been attempted, or is being  
45 attempted, to adult protective services and to a law enforcement agency;

46 (iii) at the request of adult protective services or a law enforcement  
47 agency, provide all information and documents that relate to the trans-  
48 action hold within three business days of the request for the informa-  
49 tion or documents; and

50 (iv) notwithstanding the transaction hold, make funds available from  
51 the account on which a transaction hold is placed to allow the vulner-  
52 able adult or other account holder to meet his or her ongoing obli-  
53 gations such as housing and other living expenses or emergency expenses  
54 as determined by adult protective services, a law enforcement agency or  
55 a not-for-profit organization that regularly provides services to

1 vulnerable adults in the community in which the vulnerable adult  
2 resides.

3 (d) During the pendency of a transaction hold, a banking institution  
4 may, in its discretion, also make funds available from the account on  
5 which a transaction hold is placed to allow the vulnerable adult or  
6 other account holder meet his or her ongoing obligations such as housing  
7 and other living expenses or emergency expenses, provided the banking  
8 institution does not have a reasonable basis to believe that the  
9 dispersal of such funds to the vulnerable adult or other account holder  
10 will result in the financial exploitation of the vulnerable adult. Any  
11 such dispersal of funds pursuant to this subdivision shall be reported  
12 within one business day after the dispersal is made to adult protective  
13 services and to a law enforcement agency.

14 (e) The superintendent may adopt regulations identifying the factors  
15 that a banking institution should consider in determining whether: (i)  
16 the financial exploitation of a vulnerable adult may have occurred, may  
17 have been attempted, or is being attempted; and (ii) the placement of a  
18 transaction hold is necessary to protect a vulnerable adult's money,  
19 assets, or property.

20 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)  
21 and (d) of this subdivision, a transaction hold that a banking institu-  
22 tion places on an account pursuant to this section shall terminate five  
23 business days after the date on which the transaction hold is applied by  
24 the banking institution. A banking institution may terminate the trans-  
25 action hold at any time during this five day period if the banking  
26 institution is satisfied that the termination of the transaction hold is  
27 not likely to result in financial exploitation of a vulnerable adult.

28 (b) A transaction hold may be extended beyond the period set forth in  
29 paragraph (a) of this subdivision for up to an additional fifteen days  
30 at the request of either adult protective services or a law enforcement  
31 agency.

32 (c) A transaction hold may be extended beyond the periods set forth in  
33 paragraphs (a) and (b) of this subdivision only pursuant to an order  
34 issued by a court of competent jurisdiction.

35 (d) A transaction hold may be terminated at any time pursuant an order  
36 issued by a court of competent jurisdiction.

37 4. Immunity. A banking institution or an employee of a banking insti-  
38 tution shall be immune from criminal, civil, and administrative liabil-  
39 ity for all good faith actions in relation to the application of this  
40 section including any good faith determination to apply or not apply a  
41 transaction hold on an account. Where there is reasonable basis to  
42 conclude: (a) that financial exploitation of a vulnerable adult may have  
43 occurred, may have been attempted, or is being attempted; and (b) that  
44 the placement of a transaction hold may be necessary to protect a  
45 vulnerable adult's money, assets, or property from financial exploita-  
46 tion, such immunity shall not apply to a determination not to apply a  
47 transaction hold when the banking institution or employee acts reckless-  
48 ly or engages in intentional misconduct in making the determination, or  
49 the determination results from a conflict of interest.

50 5. Certification program. The department may develop a financial  
51 exploitation certification program for banking institutions. Upon  
52 completion of the training components required by the program and after  
53 establishing the necessary internal policies, procedures, and in-house  
54 training programs, a banking institution shall receive from the depart-  
55 ment an adult financial exploitation prevention certificate demonstrat-  
56 ing that staff at such banking institution have been trained on how to

1 identify, help prevent, and report the financial exploitation of a  
2 vulnerable adult. At the discretion of the superintendent, the certif-  
3 ication program may be mandatory for banking institutions licensed by  
4 the department.

5 6. Regulations. The superintendent may issue such rules and regu-  
6 lations that provide the procedures for the enforcement of the terms of  
7 this section and any other rules and regulations that he or she deems  
8 necessary to implement the terms of this section.

9 § 2. This act shall take effect on the one hundred eightieth day after  
10 it shall have become a law.

11 PART BB

12 Section 1. The financial services law is amended by adding a new  
13 section 105 to read as follows:

14 § 105. Disqualification. (a) Definitions. (1) Covered individual. The  
15 term "covered individual," when used in this section, means (A) an indi-  
16 vidual operating under or required to operate under a license, registra-  
17 tion, permit certification or authorization under this chapter, the  
18 banking law, the insurance law, or the regulations promulgated there-  
19 under, (B) an owner, director, trustee, officer, employee, member or  
20 partner of a covered entity, or (C) an individual otherwise engaged in  
21 the business of banking, insurance or financial services in the state.

22 (2) Covered entity. The term "covered entity," when used in this  
23 section, means any entity (A) operating under or required to operate  
24 under a license, registration, permit, certificate or authorization  
25 under the banking law or the insurance law; (B) authorized, accredited,  
26 chartered or incorporated or possessing or required to possess other  
27 similar status under the banking law, or the insurance law; (C) regu-  
28 lated by the superintendent pursuant to this chapter; (D) that has  
29 submitted an application to the superintendent (i) for a license, regis-  
30 tration, permit, certificate or authorization under the banking law or  
31 the insurance law, (ii) to be authorized, accredited, chartered or  
32 incorporated under the banking law, or the insurance law or to be regu-  
33 lated pursuant to this chapter.

34 (3) Disqualifying event. For purposes of this section, an individual  
35 commits a "disqualifying event," when he or she:

36 (A) has violated a written agreement between the superintendent and  
37 the covered individual;

38 (B) has willfully violated an agreement between the superintendent and  
39 a covered entity;

40 (C) has engaged or participated in any unsafe or unsound practice in  
41 connection with any covered entity;

42 (D) has willfully made or caused to be made in any application,  
43 filing, or submission with the superintendent, any statement which was  
44 at the time and in the light of the circumstances under which it was  
45 made false or misleading with respect to any material fact, or has omit-  
46 ted to state in any such application or report any material fact which  
47 is required to be stated therein;

48 (E) has been convicted within five years of any felony or misdemeanor  
49 that:

50 (i) involves the purchase or sale of any financial product or service,  
51 the taking of a false oath, the making of a false report, bribery,  
52 perjury, burglary, any substantially equivalent activity however denomi-  
53 nated, or conspiracy to commit any such offense;

1 (ii) arises out of the conduct of the business of a covered entity or  
2 in connection with the promotion, sale or delivery of a financial prod-  
3 uct or service;

4 (iii) involves the larceny, theft, robbery, extortion, forgery, coun-  
5 terfeiting, fraudulent concealment, embezzlement, fraudulent conversion,  
6 or misappropriation of funds, or securities, or substantially equivalent  
7 activity however denominated; or

8 (iv) has a direct bearing on the individual's fitness or ability to  
9 perform one or more of the duties or responsibilities necessarily  
10 related to the license, position, or job in question;

11 (F) has been found by a federal financial regulatory authority, a  
12 state financial regulatory authority, or a foreign financial regulatory  
13 authority that is recognized by the superintendent as such to have:

14 (i) made or caused to be made in any application for registration or  
15 report required to be filed with the financial regulatory authority, or  
16 in any proceeding before the financial regulatory authority with respect  
17 to registration, any statement that was at the time and in the light of  
18 the circumstances under which it was made false or misleading with  
19 respect to any material fact, or has omitted to state in any application  
20 or report to the financial regulatory authority any material fact that  
21 is required to be stated therein; or

22 (ii) violated any banking law, or statute or regulation regarding  
23 transactions in securities, or contracts of sale of a commodity for  
24 future delivery, traded on or subject to the rules of a contract market  
25 or any board of trade; or

26 (G) is subject to any final order of any federal financial regulatory  
27 authority, a state financial regulatory authority, or a foreign finan-  
28 cial regulatory authority that is recognized by the superintendent as  
29 such that:

30 (i) bars such person from association with an entity regulated by such  
31 commission, authority, agency, or officer, or from engaging in the busi-  
32 ness of securities, insurance, banking, savings association activities,  
33 or credit union activities; or

34 (ii) constitutes a final order based on violations of any laws or  
35 regulations that prohibits fraudulent, manipulative, or deceptive  
36 conduct.

37 (b) Disqualification. Without limiting any power granted to the super-  
38 intendent under any other provision of state or federal law, (1) whenev-  
39 er the superintendent has reason to believe that a covered individual  
40 has committed a disqualifying event that is of such severity as to have  
41 a direct bearing on the individual's fitness or ability to (A) serve as  
42 an owner, director, trustee, officer, employee, member or partner of a  
43 covered entity or having any association with a covered entity, (B) hold  
44 any license, registration, permit, certification or authorization issued  
45 by the department, or (C) otherwise engage in the business of banking,  
46 insurance, or financial services in the state, (2) the superintendent  
47 may serve a statement of the charges against such covered individual and  
48 a notice of an opportunity to appear before the superintendent to show  
49 cause why he or she should not be disqualified from (A) serving as an  
50 owner, director, trustee, officer, employee, member or partner of a  
51 covered entity or having any association with a covered entity, (B)  
52 holding any license, registration, permit, certification or authori-  
53 zation issued by the department, or (C) otherwise engaging in the busi-  
54 ness of banking, insurance, or financial services in the state.

55 (c) Order of disqualification. Without limiting any power granted to  
56 the superintendent under any other provision of state or federal law, if

1 such covered individual waives a hearing, or fails to appear in person  
2 or by a duly authorized representative without good cause shown at the  
3 time and place set for the hearing or, if after a hearing, (1) the  
4 superintendent finds that the covered individual has engaged in a  
5 disqualifying event that is of such severity as to have a direct bearing  
6 on the individual's fitness or ability to (A) serve as an owner, direc-  
7 tor, trustee, officer, employee, member or partner of a covered entity  
8 or having any association with a covered entity, (B) hold any license,  
9 registration, permit, certification or authorization issued by the  
10 department, or (C) otherwise engage in the business of banking, insur-  
11 ance, or financial services in the state, (2) the superintendent may  
12 issue an order disqualifying the covered individual from (A) serving as  
13 an owner, director, trustee, officer, employee, member or partner of a  
14 covered entity or having any association with a covered entity, (B)  
15 holding any license, registration, permit, certification or authori-  
16 zation issued by the department, or (C) otherwise engaging in the busi-  
17 ness of banking, insurance, or financial services in the state. Such  
18 order of disqualification may also prohibit the covered individual's  
19 performance of any contractual agreements with any covered entity. Such  
20 order of disqualification may be for the covered individual's lifetime  
21 or for any shorter period determined by the superintendent to be in the  
22 public's interest. Any order issued pursuant to this subsection and the  
23 findings of fact upon which it is based may not be made public or  
24 disclosed to anyone, except as provided in subdivision ten of section  
25 thirty-six of the banking law or in connection with proceedings for a  
26 violation of this section.

27 (d) Suspension pending determination of charges. (1) In connection  
28 with, or at any time after service of the written notice pursuant to  
29 subsection (b) of this section, the superintendent may suspend for a  
30 period of up to one hundred eighty days, pending the determination of  
31 the charges, a covered individual from serving as a director, trustee,  
32 officer, employee, member or partner of a covered entity or having any  
33 association with a covered entity; or holding any license, registration,  
34 certification or authorization issued by the department, if the super-  
35 intendent has reason to believe that by reason of the conduct giving  
36 rise to the alleged disqualifying event:

37 (A) a covered entity has suffered or will probably suffer financial  
38 loss;

39 (B) the interests of the depositors at a covered entity have been or  
40 could be prejudiced; or

41 (C) the covered individual demonstrates willful disregard for the  
42 safety and soundness of a covered entity.

43 (2) The superintendent may extend the suspension for additional peri-  
44 ods of up to one hundred eighty days if the hearing conducted pursuant  
45 to subsection (c) of this section is not completed within the prior  
46 suspension period due to the request of the covered individual.

47 (3) Any suspension order issued pursuant to this subsection shall  
48 become effective upon service, unless it is amended or rescinded by the  
49 superintendent or a court of competent jurisdiction, or replaced by an  
50 order issued pursuant to subsection (c) of this section. Such suspension  
51 order may be reviewed in the manner provided by article seventy-eight of  
52 the civil practice law and rules.

53 (e) Rules and regulations. The superintendent may issue such rules and  
54 regulations as are necessary to implement the provisions of this  
55 section.

56 § 2. This act shall take effect January 1, 2018.



## PART CC

Section 1. The banking law is amended by adding a new section 340-a to read as follows:

§ 340-a. Exemption for certain lenders and partnering organizations.

1. For purposes of this section:

(a) "Exempt entity" shall mean an entity exempted pursuant to subdivision two of this section.

(b) "Limited lending activity" shall mean the lending of money to an individual borrower for which no interest or fees, except as otherwise provided for in this section, are charged and for which the borrower may make full or partial repayment of the loan prior to the disbursement of the loan proceeds.

2. Notwithstanding this section and sections one, ten, fourteen, thirty-six-b and thirty-eight of this chapter, the superintendent may allow an entity to engage in limited lending activity without being subject to the requirements of this chapter, if the entity:

(a) engages in no activity regulated by this chapter except the making of zero-interest loans and any activity incidental thereto;

(b) is exempt from federal income taxes under section 501 (c) (3) of the Internal Revenue Code and is organized and operated exclusively for one or more of the purposes described in section 501 (c) (3) of the Internal Revenue Code;

(c) pays no part of its net earnings to a private shareholder or individual;

(d) pays or receives no broker's fee in connection with any loan that it makes; and

(e) satisfies the other requirements set forth in this section.

3. (a) An application to operate as an exempt entity shall be filed with the superintendent, in a manner prescribed by the superintendent, along with a fee in the amount of five hundred dollars. The superintendent shall investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant and, if the superintendent finds these qualities are such as to warrant the belief that the applicant's business will be conducted honestly, fairly, equitably, carefully and efficiently within the purposes and intent of this section, and in a manner commanding the confidence and trust of the community, the superintendent shall advise the applicant in writing of the superintendent's approval of the application for an exemption pursuant to this section. The superintendent may, in his or her discretion, refuse to grant an exemption if he or she finds that one or more of the provisions of this section were not met or are not being met by the applicant or that denial of the exemption is in the best interests of the public.

(b) The superintendent may suspend or revoke any exemption granted pursuant to this section, if he or she finds that:

(i) any such entity, knowingly or without the exercise of due care to prevent such violation, has violated any provision of this section or article, or has failed to comply with any demand, or requirement made by the superintendent;

(ii) there has been any material misstatement or failure to give a true and correct answer in an application or in response to any question posed by the superintendent;

(iii) the exempt entity has defrauded any borrower or willfully failed to perform any written agreement with such person; or

1 (iv) any fact or condition exists which, if it had existed at the time  
2 of the original application for an exemption, would have warranted the  
3 superintendent to refuse to grant such exemption.

4 (c) Except as provided for in paragraph (d) of this subdivision, no  
5 exemption granted hereunder shall be suspended or revoked except after a  
6 hearing. The superintendent shall give the exempt entity at least ten  
7 days written notice of the time and place of such hearing by registered  
8 mail addressed to the principal place of business of the exempt entity.  
9 Any order suspending or revoking an exemption shall recite the grounds  
10 upon which it is based and shall not be effective until ten days after  
11 written notice has been sent by registered mail to the exempt entity's  
12 principal place of business.

13 (d) Upon, or at any time after service of written notice pursuant to  
14 paragraph (c) of this subdivision, the superintendent may suspend, pend-  
15 ing the determination of the charges, an exemption issued pursuant to  
16 this section if the superintendent has reason to believe that an exempt  
17 entity:

18 (i) has defaulted or is likely to default in the performance of its  
19 financial engagements;

20 (ii) is engaging in dishonest or inequitable practices; or

21 (iii) poses a substantial harm to the persons afforded the protection  
22 of this section.

23 4. (a) Every exempt entity shall maintain records relating to its  
24 lending activities for at least five years.

25 (b) Every exempt entity shall file an annual report with the super-  
26 intendent on or before March fifteenth of each year, containing informa-  
27 tion that the superintendent requires concerning lending activities by  
28 the entity, including any loans facilitated by a partnering nonprofit  
29 organization described in subdivision thirteen of this section, within  
30 the state during the preceding calendar year.

31 5. Every loan made by an exempt entity shall comply with the following  
32 requirements:

33 (a) The loan shall be unsecured.

34 (b) No interest may be imposed.

35 (c) Except for a reimbursement of up to ten dollars to cover an insuf-  
36 ficient funds fee incurred by an exempt entity due to actions of the  
37 borrower, no administrative or other fees may be imposed on a borrower.  
38 No exempt entity shall charge more than two insufficient funds fees to  
39 the same borrower in a single month.

40 (d) The following information shall be disclosed to the borrower in  
41 writing, in a typeface no smaller than twelve-point type and in the  
42 primary language of the borrower, at the time the loan application is  
43 received by the exempt entity:

44 (i) the amount to be borrowed, that no interest will be charged on the  
45 loan, and the total dollar cost of the loan to the borrower if the loan  
46 is paid back on time, including the principal amount borrowed, the  
47 repayment installment amount, the frequency of payment, and the insuffi-  
48 cient funds fee, if applicable; and

49 (ii) an explanation of whether, and under what circumstances, a  
50 borrower may exit a loan agreement.

51 (e) The principal amount upon origination of the loan shall be no less  
52 than two hundred fifty dollars and no more than two thousand five  
53 hundred dollars, and a term of not less than the following:

54 (i) ninety days for loans whose principal balance upon origination is  
55 less than five hundred dollars;

1 (ii) one hundred twenty days for loans whose principal balance upon  
2 origination is at least five hundred dollars, but is less than one thou-  
3 sand five hundred dollars; or

4 (iii) one hundred eighty days for loans whose principal balance upon  
5 origination is at least one thousand five hundred dollars.

6 6. The exempt entity may restructure a borrower's loan only if the  
7 loan as restructured continues to comply with the requirements in para-  
8 graphs (a), (b) and (c) of subdivision five of this section.

9 7. An exempt entity shall not sell or assign unpaid debt arising out  
10 of any loans made pursuant to the authority of this section to third  
11 parties for collection.

12 8. Prior to disbursement of loan proceeds, the exempt entity shall at  
13 no cost to the borrower either:

14 (a) provide a credit education program or seminar to the borrower that  
15 has been previously reviewed and approved by the superintendent for use  
16 in complying with this section; or

17 (b) obtain evidence that the borrower has attended a credit education  
18 program or seminar offered by an independent third party that has been  
19 previously reviewed and approved by the superintendent for use in  
20 complying with this section.

21 9. An exempt entity shall report each borrower's payment performance  
22 to at least one consumer reporting agency that compiles and maintains  
23 files on consumers on a nationwide basis. For purposes of this section,  
24 a consumer reporting agency that compiles and maintains files on consum-  
25 ers on a nationwide basis is one that meets the definition in section  
26 603(p) of the federal Fair Credit Reporting Act (15 U.S.C. Sec.  
27 1681a(p)). Any exempt entity that is accepted as a data furnisher shall  
28 report all borrower payment performance since the inception of lending  
29 by such entity, as soon as practicable after such individual is accepted  
30 into the exempt entity's lending program, but in no event more than six  
31 months after its acceptance into the program.

32 10. The exempt entity shall underwrite each loan and shall ensure that  
33 a loan is not made if, through its underwriting, the entity determines  
34 that the borrower's total monthly debt service payments, at the time of  
35 loan origination, including the loan for which the borrower is being  
36 considered, and across all outstanding forms of credit that can be inde-  
37 pendently verified by the exempt entity, exceeds fifty percent of the  
38 borrower's gross monthly household income, unless a lesser amount is  
39 mandated by subparagraph (iii) of paragraph (c) of this subdivision. The  
40 exempt entity shall in every case:

41 (a) Obtain information and documentation pertaining to all of a  
42 borrower's outstanding debt obligations during the loan application and  
43 underwriting process, including but not limited to verified information  
44 from a credit report and loans that are self-reported by the borrower  
45 but not available through independent verification.

46 (b) Not include for purposes of a debt-to-income ratio evaluation,  
47 loans from friends or family, except if in the judgment of the exempt  
48 entity, such inclusion is necessary to protect the interests of the  
49 consumer.

50 (c) Verify the borrower's household income to determine the borrower's  
51 debt-to-income ratio using information from any of the following sourc-  
52 es:

53 (i) electronic means or services deemed acceptable by the superinten-  
54 dent;

1 (ii) Internal Revenue Service form W-2, tax returns, payroll receipts,  
2 bank statements, or other third-party documents that provide reasonably  
3 reliable evidence of the borrower's actual income; or

4 (iii) a signed statement from the borrower stating sources and amounts  
5 of income, if the borrower's actual income cannot be independently veri-  
6 fied using electronic means or services, Internal Revenue Service forms,  
7 tax returns, payroll receipts, bank statements, or other third-party  
8 documents. If income is verified using a signed statement from a borrow-  
9 er, a loan shall not be made if the borrower's total monthly debt  
10 service payments, at the time of loan origination, including the loan  
11 for which the borrower is being considered, and across all outstanding  
12 forms of credit, exceeds twenty-five percent of the borrower's gross  
13 monthly household income.

14 11. The exempt entity shall notify each borrower, at least two days  
15 prior to each payment due date, of the amount due and the payment due  
16 date. Notification may be provided by any means mutually acceptable to  
17 the borrower and the exempt entity. A borrower shall have the right to  
18 opt out of this notification at any time, upon electronic or written  
19 request to the exempt entity. The exempt entity shall notify each  
20 borrower of this right prior to disbursing loan proceeds.

21 12. No exempt entity, in connection with, or incidental to, the facil-  
22 itating of any loan made pursuant to this section, shall offer, sell, or  
23 require a borrower to contract for "credit insurance" or insurance on  
24 tangible personal or real property of any type securing any loan.

25 13. An exempt entity may partner with a nonprofit organization for the  
26 purpose of facilitating zero-interest loans by the exempt entity pursu-  
27 ant to this section. This nonprofit organization shall not be subject to  
28 this section, provided that it satisfies the requirements applicable to  
29 an exempt entity set forth in paragraphs (b), (c) and (d) of subdivision  
30 two of this section and provided that:

31 (a) The exempt entity notifies the superintendent within fifteen days  
32 of entering into a written agreement with a partnering nonprofit organ-  
33 ization, on such form and in such manner as the superintendent may  
34 prescribe. At a minimum, this notification shall include the name of the  
35 partnering nonprofit organization, the contact information for a person  
36 responsible for the lending activities facilitated by that partnering  
37 organization, a copy of the agreement and the address or addresses at  
38 which the partnering organization can be reached.

39 (b) The exempt entity includes information regarding the loans facili-  
40 tated by the partnering organization in the annual report required  
41 pursuant to subdivision four of this section.

42 (c) The superintendent may, at his or her sole discretion, disqualify  
43 a partnering nonprofit organization upon a determination that this  
44 organization has acted in violation of this section or any regulation  
45 adopted hereunder.

46 14. The superintendent may examine or request a special report from  
47 each exempt entity and each partnering nonprofit organization for  
48 compliance with the provisions of this section at any time. Any entity  
49 so examined shall make available to the superintendent or his or her  
50 representative all books and records requested by the superintendent  
51 related to the lending activities facilitated by that entity. In addi-  
52 tion to the application fee provided for in paragraph (a) of subdivision  
53 three of this section, the cost of any such examination shall be paid  
54 for by the entity being examined.

55 15. All reports of examinations and investigations, correspondence and  
56 memoranda concerning or arising out of any examination or investigation

1 of an exempt entity shall be subject to the provisions of subdivision  
2 ten of section thirty-six of this chapter.

3 16. The superintendent is hereby authorized and empowered to make such  
4 general rules and regulations, and such specific rulings, demands and  
5 findings as he or she may deem necessary for the proper conduct of the  
6 lending activities exempted from licensing under this section.

7 § 2. This act shall take effect on the one hundred eightieth day after  
8 it shall have become a law.

9 PART DD

10 Section 1. The state finance law is amended by adding a new section  
11 89-i to read as follows:

12 § 89-i. Paid family leave risk adjustment fund. 1. There is hereby  
13 established in the sole custody of the superintendent of financial  
14 services a special fund, to be known as the "paid family leave risk  
15 adjustment fund".

16 2. Such fund shall consist of money received by the superintendent  
17 from insurance carriers as payments into any risk adjustment mechanism  
18 established by regulation in accordance with paragraph two of subsection  
19 (n) of section four thousand two hundred thirty-five of the insurance  
20 law.

21 3. All moneys retained in such fund shall be held on behalf of insur-  
22 ance carriers and paid out by the superintendent to insurance carriers  
23 pursuant to the risk adjustment mechanism established by regulation in  
24 accordance with paragraph two of subsection (n) of section four thousand  
25 two hundred thirty-five of the insurance law.

26 4. The funds so received and deposited in such risk adjustment fund  
27 shall not be deemed to be state funds.

28 § 2. This act shall take effect immediately.

29 PART EE

30 Section 1. Section 340 of the banking law, as amended by chapter 22 of  
31 the laws of 1990, is amended to read as follows:

32 § 340. Doing business without license prohibited. 1. No person or  
33 other entity shall engage in the business of making loans in the princi-  
34 pal amount of twenty-five thousand dollars or less for any loan to an  
35 individual for personal, family, household, or investment purposes and  
36 in a principal amount of fifty thousand dollars or less to an individual  
37 or business for business and commercial loans, [and charge, contract  
38 for, or receive a greater rate of interest than the lender would be  
39 permitted by law to charge if he were not a licensee hereunder] except  
40 as authorized by this article or by regulations issued by the super-  
41 intendent and without first obtaining a license from the superintendent.

42 2. For the purposes of this section, a person or entity shall be  
43 considered as engaging in the business of making loans in New York, and  
44 subject to the licensing and other requirements of this article, if it  
45 solicits loans in the amounts prescribed by this section [within this  
46 state] and, in connection with such solicitation, makes loans, purchases  
47 or otherwise acquires from others loans or other forms of financing, or  
48 arranges or facilitates the funding of loans, to individuals then resi-  
49 dent in this state or to businesses located or doing business in this  
50 state, except that no person or entity shall be considered as engaging  
51 in the business of making loans in this state on the basis of isolated[7



1 ~~incidental~~] or occasional transactions which otherwise meet the require-  
2 ments of this section.

3 3. When necessary to facilitate low cost lending in any community, the  
4 superintendent shall have the power to adopt regulations that provide an  
5 exemption from the licensure requirement in subdivision one of this  
6 section for a person or entity. The superintendent may also adopt any  
7 such additional rules or regulations that he or she deems necessary to  
8 implement the terms of this section including the exemption provision in  
9 this subdivision.

10 4. Nothing in this article shall apply to licensed collateral loan  
11 brokers.

12 § 2. This act shall take effect January 1, 2018.

13 PART FF

14 Section 1. Paragraph (b) of subdivision 6 of section 1304 of the real  
15 property actions and proceedings law, as amended by section 7 of part Q  
16 of chapter 73 of the laws of 2016, is amended to read as follows:

17 (b) (1) "Home loan" means a home loan, including an open-end credit  
18 plan, ~~[other than a reverse mortgage transaction]~~ in which:

19 (i) The principal amount of the loan at origination did not exceed the  
20 conforming loan size that was in existence at the time of origination  
21 for a comparable dwelling as established by the federal housing adminis-  
22 tration or federal national mortgage association;

23 (ii) The borrower is a natural person;

24 (iii) The debt is incurred by the borrower primarily for personal,  
25 family, or household purposes;

26 (iv) The loan is secured by a mortgage or deed of trust on real estate  
27 upon which there is located or there is to be located a structure or  
28 structures intended principally for occupancy of from one to four fami-  
29 lies which is or will be occupied by the borrower as the borrower's  
30 principal dwelling; and

31 (v) The property is located in this state.

32 (2) A home loan shall include a loan secured by a reverse mortgage  
33 that meets the requirements of clauses (i) through (v) of subparagraph  
34 one of this paragraph.

35 § 2. Subdivision (a) of rule 3408 of the civil practice law and rules,  
36 as amended by section 2 of part Q of chapter 73 of the laws of 2016, is  
37 amended to read as follows:

38 (a) ~~[1a]~~ 1. Except as provided in paragraph two of this subdivision,  
39 in any residential foreclosure action involving a home loan as such term  
40 is defined in section thirteen hundred four of the real property actions  
41 and proceedings law, in which the defendant is a resident of the proper-  
42 ty subject to foreclosure, plaintiff shall file proof of service within  
43 twenty days of such service, however service is made, and the court  
44 shall hold a mandatory conference within sixty days after the date when  
45 proof of service upon such defendant is filed with the county clerk, or  
46 on such adjourned date as has been agreed to by the parties, for the  
47 purpose of holding settlement discussions pertaining to the relative  
48 rights and obligations of the parties under the mortgage loan documents,  
49 including, but not limited to: ~~[1a]~~ (i) determining whether the parties  
50 can reach a mutually agreeable resolution to help the defendant avoid  
51 losing his or her home, and evaluating the potential for a resolution in  
52 which payment schedules or amounts may be modified or other workout  
53 options may be agreed to, including, but not limited to, a loan modifi-  
54 cation, short sale, deed in lieu of foreclosure, or any other loss miti-

1 gation option; or [~~2-~~] (ii) whatever other purposes the court deems  
2 appropriate.

3 2. Paragraph one of this subdivision shall not apply to a home loan  
4 secured by a reverse mortgage where the default was triggered by the  
5 death of the last surviving borrower unless the last surviving borrow-  
6 er's spouse, if any, is a resident of the property subject to foreclo-  
7 sure.

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

9 (a) the amendments to paragraph (b) of subdivision 6 of section 1304  
10 of the real property actions and proceedings law, made by section one of  
11 this act, shall take effect on the same date and in the same manner as  
12 section 7 of part Q of chapter 73 of the laws of 2016 takes effect; and

13 (b) the amendments to subdivision (a) of rule 3408 of the civil prac-  
14 tice law and rules, made by section two of this act, shall be subject to  
15 the expiration and reversion of such subdivision pursuant to subdivision  
16 e of section 25 of chapter 507 of the laws of 2009, as amended.

17 PART GG

18 Section 1. This act enacts into law major components of legislation  
19 relating to assessments, distribution of assets, and insurers deemed to  
20 be in a hazardous financial condition. Each component is wholly  
21 contained within a Subpart identified as Subparts A through C. The  
22 effective date for each particular provision contained within such  
23 Subpart is set forth in the last section of such Subpart. Any provision  
24 in any section contained within a Subpart, including the effective date  
25 of the Subpart, which makes references to a section "of this act", when  
26 used in connection with that particular component, shall be deemed to  
27 mean and refer to the corresponding section of the Subpart in which it  
28 is found. Section three of this act sets forth the general effective  
29 date of this act.

30 SUBPART A

31 Section 1. Subsection (a) of section 206 of the financial services  
32 law, is amended and a new subsection (g) is added to read as follows:

33 (a) For each fiscal year commencing on or after April first, two thou-  
34 sand twelve, assessments to defray operating expenses, including all  
35 direct and indirect costs, of the department, except expenses incurred  
36 in the liquidation of banking organizations, shall be assessed by the  
37 superintendent in accordance with this subsection. Persons regulated  
38 under the insurance law shall be assessed by the superintendent for the  
39 operating expenses of the department that are solely attributable to  
40 regulating persons under the insurance law, which shall include any  
41 expenses that were permissible to be assessed in fiscal year two thou-  
42 sand nine-two thousand ten, with the assessments allocated pro rata upon  
43 all domestic insurers and all licensed United States branches of alien  
44 insurers domiciled in this state within the meaning of paragraph four of  
45 subsection (b) of section seven thousand four hundred eight of the  
46 insurance law, in proportion to the gross direct premiums and other  
47 considerations, written or received by them in this state during the  
48 calendar year ending December thirty-first immediately preceding the end  
49 of the fiscal year for which the assessment is made (less return premi-  
50 ums and considerations thereon) for policies or contracts of insurance  
51 covering property or risks resident or located in this state the issu-  
52 ance of which policies or contracts requires a license from the super-

intendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. Persons regulated under this chapter shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulated persons under this chapter in such proportions as the superintendent shall deem just and reasonable. Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, and upon any regulated person under this chapter and the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(g) The expenses of every examination of the affairs of any regulated person subject to this chapter, shall be borne and paid by the regulated person so examined, but the superintendent, with the approval of the comptroller, may, in the superintendent's discretion for good cause shown, remit such charges.

§ 2. This act shall take effect January 1, 2018.

## SUBPART B

Section 1. Legislative findings. In order to provide an appropriate scheme of distribution of assets of all insolvent insurers, the legislature finds that it is in the best interest of the people of this state to amend statutes regarding the priority of distribution under Article 74 of the Insurance Law.

§ 2. Paragraph 1 of subsection (a) of section 7434 of the insurance law, as amended by chapter 134 of the laws of 1999, is amended to read as follows:

(1) Upon the recommendation of the superintendent, as receiver, and under the direction of the court, distribution payments shall be made in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the [~~liquidation~~] proceeding subject to this article and the protection of unliquidated and undetermined claims. The priority of distribution of claims from [~~an~~] all insolvent [~~property/casualty insurer~~] insurers in any proceeding subject to this article, unless otherwise specified, shall be in accordance with the order in which each class of claims is set forth in this paragraph and as provided in this paragraph. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder, contract holder or other creditor shall be permitted to

1 circumvent the priority classes through the use of equitable remedies.  
2 The order of distribution of claims shall be:

3 (i) Class one. Claims with respect to the actual and necessary costs  
4 and expenses of administration, incurred by the liquidator, rehabilita-  
5 tor or conservator under this article.

6 (ii) Class two. All claims under policies or contracts, including such  
7 claims of the federal or any state or local government for losses  
8 incurred, third party claims, claims for unearned premiums, and all  
9 claims of a security fund, guaranty association or the equivalent except  
10 claims arising under reinsurance contracts.

11 (iii) Class three. Claims of the federal government except those under  
12 class two above.

13 (iv) Class four. Claims for wages owing to employees of an insurer  
14 against whom a proceeding under this article is commenced for services  
15 rendered within one year before commencement of the proceeding, not  
16 exceeding one thousand two hundred dollars to each employee, and claims  
17 for unemployment insurance contributions required by article eighteen of  
18 the labor law. Such priority shall be in lieu of any other similar  
19 priority which may be authorized by law.

20 (v) Class five. Claims of state and local governments except those  
21 under class two above.

22 (vi) Class six. Claims of general creditors including[~~, but not limit-~~  
23 ~~ed to,~~] claims arising under reinsurance contracts.

24 (vii) Class seven. Claims filed late or any other claims other than  
25 claims under class eight or class nine below.

26 (viii) Class eight. Claims for advanced or borrowed funds made pursu-  
27 ant to section one thousand three hundred seven of this chapter.

28 (ix) Class nine. Claims of shareholders or other owners in their  
29 capacity as shareholders.

30 § 3. Section 7435 of the insurance law, as added by chapter 802 of the  
31 laws of 1985, paragraph 7 of subsection (a) as amended by chapter 300 of  
32 the laws of 1996, is amended to read as follows:

33 § 7435. Distribution for life insurers. (a) Upon the recommendation of  
34 the superintendent, as receiver, and under the direction of the court,  
35 distribution payments shall be made in a manner that will assure the  
36 proper recognition of priorities and a reasonable balance between the  
37 expeditious completion of the proceeding subject to this article and the  
38 protection of unliquidated and undetermined claims. The priority of  
39 distribution of claims from the estate of [~~a~~] an insolvent life insur-  
40 ance company in any proceeding subject to this article shall be in  
41 accordance with the order in which each class of claims is [~~herein~~] set  
42 forth in this section and as provided in this section. Every claim in  
43 each class shall[~~, subject to such limitations as may be prescribed by~~  
44 ~~law and do not directly conflict with the express provisions of this~~  
45 ~~section,~~] be paid in full or adequate funds retained for such payment  
46 before the members of the next class receive any payment. No subclasses  
47 shall be established within any class. No claim by a shareholder, poli-  
48 cyholder, annuitant, or other creditor shall be permitted to circumvent  
49 the priority classes through the use of equitable remedies. The order of  
50 distribution of claims shall be:

51 (1) Class one. Claims with respect to the actual and necessary costs  
52 and expenses of administration, incurred by the liquidator, rehabilita-  
53 tor, conservator or ancillary rehabilitator under this article, or by  
54 The Life Insurance Guaranty Corporation or The Life Insurance Company  
55 Guaranty Corporation of New York, and claims described in subsection (d)  
56 of section seven thousand seven hundred thirteen of this chapter.

(2) Class two. [~~Debts due to employees for services performed to the extent that they do not exceed one thousand two hundred dollars and represent payment for services performed within one year before the commencement of a proceeding under this article. Such priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees~~] All claims under insurance policies, including such claims of the federal or any state or local government, annuity contracts, and funding agreements, and all claims of the The Life Insurance Company Guaranty Corporation of New York or any other guaranty corporation or association of this state or another jurisdiction, other than claims provided for in paragraph one of this subsection and claims for interest.

(3) Class three. [~~All claims for payment for goods furnished or services rendered to the impaired or insolvent insurer in the ordinary course of business within ninety days prior to the date on which the insurer was determined to be impaired or insolvent, whichever is applicable~~] Claims of the federal government except claims provided for in paragraph two of this subsection.

(4) Class four. [~~All claims under insurance policies, annuity contracts and funding agreements, and all claims of The Life Insurance Company Guaranty Corporation of New York or any other guaranty corporation or association of this state or another jurisdiction, other than (i) claims provided for in paragraph one of this subsection, and (ii) claims for interest~~] Debts due to employees for services performed to the extent that they do not exceed one thousand two hundred dollars and represent payment for services performed within one year before the commencement of a proceeding under this article. Such priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(5) Class five. [~~Claims of the federal or any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed to this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph eight of this subsection~~] All claims for payment for goods furnished or services rendered to the impaired or insolvent insurer in the ordinary course of business within ninety days prior to the date on which the insurer was determined to be impaired or insolvent, whichever is applicable.

(6) Class six. [~~Claims of general creditors and any other claims other than claims under paragraphs seven and eight of this subsection~~] Claims of any state or local government other than claims provided for under paragraph two of this subsection. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed to this class only to the extent of pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph nine of this subsection.

(7) Class seven. [~~Surplus, capital or contribution notes, or similar obligations~~] Claims of general creditors and any other claims other than claims under paragraphs eight and nine of this subsection.

(8) Class eight. [~~The claims of (i) policyholders, other than claims under paragraph four of this subsection, and (ii) shareholders or other owners~~] Surplus, capital, or contribution notes, or similar obligations.



(9) Class nine. The claims of policyholders or annuitants, other than claims under paragraph two of this subsection, and shareholders or other owners.

(b) Every claim under a separate account agreement providing, in effect, that the assets in the separate account shall not be chargeable with liabilities arising out of any other business of the insurer shall be satisfied out of the assets in the separate account equal to the reserves maintained in such account for such agreement and, to the extent, if any, not fully discharged thereby, shall be treated as a class four claim against the estate of the life insurance company.

(c) For purposes of this section:

(1) "The estate of the life insurance company" shall mean the general assets of such company less any assets held in separate accounts that, pursuant to section four thousand two hundred forty of this chapter, are not chargeable with liabilities arising out of any other business of the insurer.

(2) "Insurance policies, annuity contracts and funding agreements" shall mean all policies and contracts of any of the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this chapter and all funding agreements described in section three thousand two hundred twenty-two of this chapter, including all separate account agreements, except that separate account agreements referred to in subsection (b) of this section shall be included only to the extent referred to therein.

(3) "Separate account agreement or agreements" shall mean any agreement or agreements for separate accounts referred to in section four thousand two hundred forty of this chapter.

§ 4. This act shall take effect immediately.

#### SUBPART C

Section 1. Section 1104 of the insurance law, the section heading as amended and subsections (c) and (d) as added by chapter 235 of the laws of 1989, the opening paragraph of subsection (c) as amended by chapter 598 of the laws of 2000, is amended to read as follows:

§ 1104. Revocation or suspension of license; restriction of license authority or limitation on premiums written. (a) The superintendent may revoke any license, certificate of authority, or registration issued to any foreign or alien insurer to do an insurance business in this state if, after notice to and hearing, ~~he~~ the superintendent finds that such insurer has failed to comply with any requirement imposed upon it by the provisions of this chapter and if in ~~his~~ the superintendent's judgment such revocation is reasonably necessary to protect the interests of the people of this state. The superintendent may, in his or her discretion, reinstate any such license, certificate of authority, or registration if ~~he~~ the superintendent finds that a ground for such revocation no longer exists.

(b) The superintendent shall revoke the certificate of authority of any corporation or agent convicted of violating section two thousand six hundred three of this chapter.

(c) ~~The~~ (1) Notwithstanding any other provision of this chapter, the superintendent may ~~[suspend the license, restrict the license authority, or limit the amount of premiums written in this state of any accident and health insurance company, property/casualty insurance company, co-operative property/casualty insurance company, title insurance company, mortgage guaranty insurance company, reciprocal insurer, Lloyds~~

~~underwriters or nonprofit property/casualty insurance company~~ take one or more of the actions specified in subparagraph (B) of paragraph four of this subsection against an insurer, except those insurers subject to the provisions of subsection (c) of section two thousand three hundred forty-three of this chapter, if after a hearing on a record, unless waived by the affected insurer, the superintendent determines that such insurer's surplus to policyholders is not adequate in relation to the insurer's outstanding liabilities or to its financial needs or if the superintendent otherwise determines that the continued operation of the insurer might be deemed to be hazardous to the insurer's policyholders, creditors, or to the general public.

(2) All matters pertaining to a proceeding or determination pursuant to this subsection shall be confidential and not subject to subpoena or public inspection under article six of the public officers law or any other statute, except to the extent that the superintendent finds release of information necessary to protect the public. The hearing shall be initiated within twenty days after written notice to the insurer. Any determination pursuant to this subsection shall contain findings specifying the factors deemed significant in regard to the particular insurer, and shall set forth the reasons supporting the suspension, restriction or limitation ordered by the superintendent.

(3) The superintendent may consider the following factors [~~shall be considered by the superintendent~~] in making [~~such~~] a determination as to whether an insurer's surplus to policyholders is adequate in relation to the insurer's outstanding liabilities or to its financial needs:

[~~(1)~~] (A) the size of the insurer as measured by its admitted assets, capital and surplus to policyholders, reserves, premium writings, insurance in force and other appropriate criteria, with such surplus to policyholders for foreign insurers adjusted in accordance with section one thousand four hundred thirteen of this chapter;

[~~(2)~~] (B) the extent to which the insurer's business is diversified among the several kinds of insurance;

[~~(3)~~] (C) the number and size of risks insured in each kind of insurance and the insurer's loss experience in regard to such risks;

[~~(4)~~] (D) the extent of geographical dispersion of the insurer's risks;

[~~(5)~~] (E) the nature and extent of the insurer's reinsurance program;

[~~(6)~~] (F) the quality, diversification and liquidity of the insurer's investment portfolio;

[~~(7)~~] (G) the recent past and projected future trends in regard to the insurer's loss experience and in the size of the insurer's surplus to policyholders;

[~~(8)~~] (H) the surplus to policyholders maintained by other comparable insurers;

[~~(9)~~] (I) the adequacy of the insurer's reserves; and

[~~(10)~~] (J) the quality and liquidity of investments in subsidiaries made pursuant to this chapter.

(4)(A) The superintendent may consider the following standards, either singly or a combination of two or more, to determine whether the continued operation of any insurer might be deemed to be hazardous to its policyholders, creditors, or to the general public:

(i) adverse findings reported in financial condition and market conduct examination reports, audit reports, actuarial opinions, reports, or summaries, or other reports;

1 (ii) the national association of insurance commissioners insurance  
2 regulatory information system and its other financial analysis solvency  
3 tools and reports;

4 (iii) whether the insurer has made adequate provision, according to  
5 presently accepted actuarial standards of practice, for the anticipated  
6 cash flows required by the contractual obligations and related expenses  
7 of the insurer, when considered in light of the assets held by the  
8 insurer with respect to such reserves and related actuarial items,  
9 including the investment earnings on such assets, and the considerations  
10 anticipated to be received and retained under such policies and  
11 contracts;

12 (iv) the ability of an assuming reinsurer to perform and whether the  
13 insurer's reinsurance program provides sufficient protection for the  
14 insurer's remaining surplus after taking into account the insurer's cash  
15 flow and the classes of business written as well as the financial condi-  
16 tion of the assuming reinsurer;

17 (v) whether the insurer's operating loss in the last twelve-month  
18 period or any shorter period of time, including net capital gain or  
19 loss, change in non-admitted assets, and cash dividends paid to share-  
20 holders, is greater than fifty percent of the insurer's remaining  
21 surplus to policyholders in excess of the minimum required;

22 (vi) whether the insurer's operating loss in the last twelve-month  
23 period or any shorter period of time, excluding net capital gains, is  
24 greater than twenty percent of the insurer's remaining surplus to poli-  
25 cyholders in excess of the minimum required;

26 (vii) whether a reinsurer, an obligor, any entity in the insurer's  
27 holding company system, as defined in paragraph six of subsection (a) of  
28 section one thousand five hundred one of this chapter, or any subsidiary  
29 of an insurer, is insolvent, threatened with insolvency, or delinquent  
30 in payment of its monetary or other obligations, and which in the opin-  
31 ion of the superintendent may affect the solvency of the insurer;

32 (viii) contingent liabilities, pledges, or guarantees that either  
33 individually or collectively involve a total amount that in the super-  
34 intendent's opinion may affect the insurer's solvency;

35 (ix) whether any person who controls an insurer, as defined in para-  
36 graph two of subsection (a) of section one thousand five hundred one of  
37 this chapter, is delinquent in the transmitting to, or payment of, net  
38 premiums to the insurer;

39 (x) the age and collectability of receivables;

40 (xi) whether the management of an insurer, including officers, direc-  
41 tors, or any other person who directly or indirectly controls the opera-  
42 tion of the insurer, fails to possess and demonstrate the competence,  
43 fitness, and reputation deemed necessary to serve the insurer in such  
44 position;

45 (xii) whether the insurer's management has failed to respond to an  
46 inquiry of the superintendent relative to the insurer's condition or has  
47 furnished false and misleading information concerning such an inquiry;

48 (xiii) whether the insurer has failed to meet financial filing  
49 requirements or filing requirements pursuant to articles fifteen,  
50 sixteen, or seventeen of this chapter, or regulations promulgated there-  
51 under, in the absence of a reason satisfactory to the superintendent;

52 (xiv) whether the insurer's management either has filed any false or  
53 misleading sworn financial statement, or has released false or mislead-  
54 ing financial statements to lending institutions or to the general  
55 public, or has made a false or misleading entry, or has omitted an entry  
56 of material amount in the insurer's books;

1 (xv) whether the insurer has grown so rapidly and to such an extent  
2 that it lacks adequate financial and administrative capacity to meet its  
3 obligations in a timely manner;

4 (xvi) whether the insurer has experienced or is expected to experience  
5 in the foreseeable future cash flow or liquidity problems;

6 (xvii) whether management has established reserves that do not comply  
7 with minimum standards established by this chapter or regulations  
8 promulgated thereunder, statutory accounting standards, as adopted by  
9 the superintendent, sound actuarial principles and standards of prac-  
10 tice;

11 (xviii) whether management persistently engages in material under  
12 reserving that results in adverse development;

13 (xix) whether any transaction with an affiliate, a subsidiary, or a  
14 parent for which the insurer receives assets or capital gains, or both,  
15 do not provide sufficient value, liquidity, or diversity to assure the  
16 insurer's ability to meet its outstanding obligations as they mature;  
17 and

18 (xx) any other finding determined by the superintendent to be hazard-  
19 ous to the insurer's policyholders, creditors, or to the general public.

20 (B) If the superintendent determines that the insurer's surplus to  
21 policyholders is not adequate in relation to the insurer's outstanding  
22 liabilities or to its financial needs or if the superintendent otherwise  
23 determines that the continued operation of the insurer may be hazardous  
24 to its policyholders, creditors, or to the general public, then the  
25 superintendent may, upon a determination, suspend the insurer's license,  
26 certificate of authority, or registration, restrict the insurer's  
27 license, certificate of authority, or registration authority, or issue  
28 an order requiring the insurer to do one or more of the following:

29 (i) reduce the total amount of present and potential liability for  
30 policy benefits by reinsurance;

31 (ii) reduce, suspend, or limit the volume of business being accepted  
32 or renewed, or limit the amount of premiums written in this state;

33 (iii) reduce general insurance and commission expenses by specified  
34 methods;

35 (iv) increase the insurer's capital and surplus;

36 (v) suspend or limit the declaration and payment of dividends by an  
37 insurer to its stockholders or policyholders;

38 (vi) file reports on a form and in a manner acceptable to the super-  
39 intendent concerning the market value of an insurer's assets;

40 (vii) limit or withdraw from certain investments or discontinue  
41 certain investment practices to the extent the superintendent deems  
42 necessary;

43 (viii) document the adequacy of premium rates in relation to the risks  
44 insured;

45 (ix) file, in addition to regular annual statements, interim financial  
46 reports on a form and in a manner prescribed by the superintendent,  
47 which may include a form adopted by the national association of insur-  
48 ance commissioners;

49 (x) correct corporate governance practice deficiencies, and adopt and  
50 utilize governance practices acceptable to the superintendent;

51 (xi) provide a business plan to the superintendent in order to contin-  
52 ue to transact business in this state; or

53 (xii) notwithstanding any other provision of law, adjust rates for any  
54 non-life insurance policy or contract written by the insurer that the  
55 superintendent considers necessary to improve the insurer's financial  
56 condition.

(d) ~~[The superintendent shall identify and review those licensed property/casualty insurers needing immediate or targeted regulatory attention, and shall include the number of insurers so identified in the report required by section three hundred thirty-four of this chapter. Such report shall also include the name of each licensed property/casualty insurer placed in formal conservatorship, rehabilitation or liquidation during the preceding year. Nothing herein shall be construed to restrict or diminish any right or power of the superintendent under any other provision of this chapter]~~ For the purposes of this section, "insurer" shall mean any person, firm, association, corporation, or joint-stock company authorized to do an insurance business in this state by a license in force pursuant to the provisions of this chapter or exempted by the provisions of this chapter from such licensing, except that, for purposes of this section, the term "insurer" shall not include any health maintenance organization operating pursuant to section one thousand one hundred nine of this chapter or any continuing care retirement community operating pursuant to section one thousand one hundred nineteen of this chapter.

§ 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 HH

Section 1. Paragraph (a) of subdivision 2 of section 179 of the navigation law, as amended by section 2 of part X of chapter 58 of the laws of 2015, is amended to read as follows:

(a) An account which shall be credited with all license fees and penalties collected pursuant to paragraph (b) of subdivision one and paragraph (a) of subdivision four of section one hundred seventy-four of this article except as provided in section one hundred seventy-nine-a of this part, the portion of the surcharge collected pursuant to paragraph (d) of subdivision four of section one hundred seventy-four of this article, penalties collected pursuant to paragraph (b) of subdivision four of section one hundred seventy-four-a of this article, money collected pursuant to section one hundred eighty-seven of this ~~[article]~~ part, all penalties collected pursuant to section one hundred ninety-two of this article, and registration fees collected pursuant to subdivision two of section 17-1009 of the environmental conservation law.

§ 2. The navigation law is amended by adding a new section 179-a to read as follows:

§ 179-a. New York environmental protection and spill remediation account. 1. There is hereby created an account within the miscellaneous capital projects fund, the New York environmental protection and spill remediation account. The New York environmental protection and spill remediation account shall consist of license fees received by the state



1 pursuant to section one hundred seventy-four of this article, in an  
2 amount equal to expenditures made from this account.

3 2. These moneys, after appropriation by the legislature, and within  
4 the amounts set forth and for the several purposes specified, shall be  
5 available to reimburse the department of environmental conservation for  
6 expenditures associated with the purposes of costs incurred under  
7 section one hundred seventy-six of this article, including cleanup and  
8 removal of petroleum spills, and other capital, investigation, mainte-  
9 nance and remediation costs.

10 3. All payments made from the New York environmental protection and  
11 spill remediation account shall be made by the administrator upon  
12 certification by the commissioner.

13 4. Spending pursuant to this section shall be included in the annual  
14 report required by section one hundred ninety-six of this article.

15 § 3. This act shall take effect immediately and shall be deemed to  
16 have been in full force and effect on and after April 1, 2017.

17 PART II

18 Section 1. This act shall be known and may be cited as the "clean  
19 water infrastructure act of 2017".

20 § 2. Article 15 of the environmental conservation law is amended by  
21 adding a new title 33 to read as follows:

22 TITLE 33

23 SOURCE WATER PROTECTION PROJECTS

24 Section 15-3301. Definitions.

25 15-3303. Land acquisition projects for source water protection.

26 § 15-3301. Definitions.

27 As used in this title the following terms shall mean:

28 1. "Land acquisition projects" means open space acquisition projects  
29 undertaken with willing sellers including, but not limited to, the  
30 purchase of conservation easements, undertaken by a municipality, a  
31 not-for-profit corporation, or purchase of conservation easements by a  
32 soil and water conservation district.

33 2. "Municipality" means the same as such term as defined in section  
34 56-0101 of this chapter.

35 3. "Not-for-profit corporation" means a corporation formed pursuant to  
36 the not-for-profit corporation law and qualified for tax-exempt status  
37 under the federal internal revenue code.

38 4. "Soil and water conservation district" means the same as such term  
39 as defined in section five of the soil and water conservation districts  
40 law.

41 5. "State assistance payment" means payment of the state share of the  
42 cost of projects authorized by this title to preserve, enhance, restore  
43 and improve the quality of the state's environment.

44 § 15-3303. Land acquisition projects for source water protection.

45 1. The commissioner is authorized to provide state assistance to muni-  
46 cipalities, not-for-profit corporations and soil and water conservation  
47 districts to undertake land acquisition projects for source water  
48 protection, in cooperation with willing sellers. Projects shall develop,  
49 expand or enhance water quality protection, including but not limited to  
50 aquifers, watersheds, reservoirs, lakes, rivers and streams. The  
51 department shall set forth the state share of land acquisition projects  
52 in any request for proposal issued to solicit projects.

1     2. Any conservation easement acquired pursuant to this section that  
2 encumbers lands in a county designated state certified agricultural  
3 district shall allow agricultural activity on such lands provided that  
4 the activity complies with all applicable technical standards estab-  
5 lished by the natural resources conservation service.

6     3. In evaluating projects pursuant to this section, the department  
7 shall give priority first to projects which protect or recharge drinking  
8 water sources and watersheds including riparian buffers and second to  
9 projects which improve resilience.

10    4. No state assistance may be provided pursuant to this section to  
11 fund any project committed to in any agreement pursuant to a filtration  
12 avoidance determination.

13    5. The commissioner may enter into a contract with a municipality or a  
14 not-for-profit corporation for the undertaking of a land acquisition  
15 project. Costs under such contracts are subject to final computation by  
16 the department upon completion of the project, and shall not exceed the  
17 maximum eligible cost set forth in any such contract.

18    6. The cost of a source water protection land acquisition project may  
19 include the cost of preparation of a plan for the preservation of the  
20 real property interest in land acquired pursuant to this section except  
21 where such considerations have already been undertaken as part of any  
22 existing plan applicable to the newly acquired real property interest in  
23 land.

24    7. The soil and water conservation committee in consultation with the  
25 commissioner of agriculture and markets is authorized to provide state  
26 assistance payments to county soil and water conservation districts for  
27 land acquisition projects for source water protection consistent with  
28 section eleven-b of the soil and water conservation districts law.  
29 Projects shall develop, expand or enhance water quality protection,  
30 including but not limited to aquifers, watersheds, reservoirs, lakes,  
31 rivers and streams. Such committee shall give priority to projects  
32 which establish buffers from waters which serves as or are tributaries  
33 to drinking water supplies for such projects using state assistance  
34 pursuant to this section.

35    8. a. Real property acquired, developed, improved, restored or reha-  
36 ilitated by or through a municipality with funds made available pursu-  
37 ant to this title shall not be sold, leased, exchanged, donated or  
38 otherwise disposed of or used for other than water quality protection  
39 purposes without approval from the department, which shall provide for  
40 the substitution of other lands of equal environmental value and fair  
41 market value and reasonably equivalent usefulness and location to those  
42 to be discontinued, sold or disposed of, and such other requirements as  
43 shall be approved by the commissioner; provided, however, that such real  
44 property may be sold, leased, exchanged, donated or otherwise disposed  
45 of to the state, another municipality or a not-for-profit for the same  
46 purposes.

47    b. Real property acquired by a not-for-profit organization with funds  
48 made available pursuant to this title shall not be sold, leased,  
49 exchanged, donated or otherwise disposed of, except to a municipality or  
50 the state for the same purposes, without the approval of the department.

51    9. If the state acquires a real property interest in land purchased by  
52 a municipality or not-for-profit with funds made available pursuant to  
53 this title, the state shall pay the fair market value of such interest  
54 less the amount of funding provided by the state pursuant to this  
55 section.

§ 3. The public health law is amended by adding a new section 1113 to read as follows:

§ 1113. Lead service line replacement grant program. Notwithstanding section one hundred sixty-three of the state finance law or any inconsistent provision of law to the contrary, and within amounts appropriated therefor, the department shall award grants to municipalities without a formal competitive process, for purposes of replacing lead service lines used to supply drinking water. When determining which municipalities shall receive awards and the amount of such awards, the department shall consider for each municipality the cost of replacing lead service lines and the number of persons who receive drinking water from such service lines, and shall give priority to those municipalities with low-income communities, according to a methodology as shall be determined by the department.

§ 4. Article 27 of the environmental conservation law is amended by adding a new title 12 to read as follows:

#### TITLE 12

#### CLEANUP AND ABATEMENT OF CERTAIN SOLID WASTE SITE AND DRINKING WATER CONTAMINATION

##### Section 27-1201. Definitions.

27-1203. Mitigation and cleanup of solid waste sites.

27-1205. Mitigation of contaminants in drinking water.

27-1207. Use and reporting of solid waste and drinking water response account.

27-1209. Rules and regulations.

##### § 27-1201. Definitions.

When used in this title:

1. "Mitigation and cleanup" means the investigation, sampling, management, removal, remediation or restoration of a solid waste site and all other actions required to restore or protect drinking water supplies, groundwater, or other environmental media and restoration of the site to a condition that it is no longer causing or contributing to pollution of groundwater, water supplies or the environment.

2. "Solid waste site" means a disposal facility as defined in regulations where solid waste has been improperly disposed as determined by the department or a court of competent jurisdiction, or an active or inactive solid waste management facility as defined in regulations where an impact to drinking water supplies, groundwater contamination or other environmental contamination is known or suspected. Solid waste site shall not include a site subject to investigation or remediation pursuant to title thirteen or fourteen of this article.

3. "Solid waste and drinking water response account" means the account established pursuant to subdivision one of section ninety-seven-b of the state finance law.

##### § 27-1203. Mitigation and cleanup of solid waste sites.

1. The solid waste site cleanup priorities in this state are:

a. first, to mitigate and cleanup any solid waste site causing or contributing to impairments of drinking water quality; and

b. second, to mitigate and cleanup solid waste sites which are causing or contributing to other environmental contamination which may impact public health.

2. The owner or operator of a solid waste site shall, at the department's written request, submit to and cooperate with any and all remedial measures deemed necessary by the department for the mitigation and cleanup of solid waste. The department may implement all necessary meas-

1 ures to mitigate and cleanup the solid waste site after making all  
2 reasonable efforts to identify and compel the owner or operator to coop-  
3 erate with the department. The department is not required to commence a  
4 hearing or issue an order prior to using moneys from the solid waste and  
5 drinking water response account.

6 3. All necessary and reasonable expenses of mitigation and cleanup of  
7 a solid waste site shall be paid by the person or persons who owned,  
8 operated or maintained the solid waste site except as provided in subdivi-  
9 vision four of this section, or from the solid waste and drinking water  
10 response account and shall be a debt recoverable by the state from all  
11 persons who owned, operated or maintained the solid waste site, and a  
12 lien may be imposed upon real property pursuant to subdivision sixteen  
13 of section ninety-seven-b of the state finance law, and a charge may be  
14 placed on the premises upon which the solid waste site is maintained and  
15 upon any real or personal property, equipment, vehicles, and inventory  
16 controlled by such person or persons. Moneys recovered shall be paid to  
17 the solid waste and drinking water response account.

18 4. a. The department shall make all reasonable efforts to recover the  
19 full amount of any funds expended from the solid waste and drinking  
20 water response account for mitigation and cleanup through litigation or  
21 cooperative agreements. Any and all moneys recovered, repaid or reim-  
22 bursed pursuant to this section shall be deposited with the comptroller  
23 and credited to such fund.

24 b. When a municipality develops and implements a plan to investigate,  
25 mitigate and cleanup a solid waste site, as approved by the department,  
26 for a site which is owned or has been operated by such municipality or  
27 when the department, pursuant to an agreement with a municipality,  
28 develops and implements such a plan, the commissioner shall, in the name  
29 of the state, agree in such agreement to provide from the solid waste  
30 and drinking water response account, within the limitations of appropri-  
31 ations therefor, seventy-five percent of the eligible design and  
32 construction costs of such program which are not recovered from or reim-  
33 bursed or paid by a responsible party or the federal government.

34 5. The department shall have the authority to enter all solid waste  
35 sites for the purpose of investigation, mitigation and cleanup.

36 § 27-1205. Mitigation of contaminants in drinking water.

37 1. Whenever the commissioner of health has required a public water  
38 system to take action to reduce exposure to contaminants pursuant to  
39 section eleven hundred twelve of the public health law, or at any time  
40 upon the request of the commissioner of health, the department may  
41 undertake all reasonable and necessary measures to ensure that safe  
42 drinking water is expeditiously made available to all people in any area  
43 of the state in which contamination is known to be present. Such area  
44 shall include, at a minimum, all properties served by the water system  
45 and any land and any surface or underground water sources identified by  
46 the department or department of health as causing or contributing to the  
47 contamination. The department's measures may include the installation  
48 of treatment systems, including but not limited to installation of  
49 onsite water supplies, or the provision of alternative water supply  
50 sources to ensure that water meets applicable maximum contaminant levels  
51 or other threshold concentrations set by the department of health.

52 2. If the department, in consultation with the department of health,  
53 is able to identify a source of contamination which caused or contrib-  
54 uted to contamination, the department shall require the owner or opera-  
55 tor of the source of contamination to investigate, develop and implement  
56 a plan to remediate the source of contamination.

3. The department shall make all reasonable efforts to recover the full amount of any funds expended from the solid waste and drinking water response account for a drinking water response through litigation or cooperative agreements. Any and all moneys recovered, repaid or reimbursed pursuant to this section shall be deposited with the comptroller and credited to such account.

a. When a municipality develops and implements a plan to respond to drinking water contamination, determined pursuant to subdivision one of this section, and the plan is approved by the department, for a site which is owned or has been operated by such municipality or when the department, pursuant to an agreement with a municipality, develops and implements such a plan, the commissioner shall, in the name of the state, agree in such agreement to provide from the solid waste and drinking water response account, within the limitations of appropriations therefor, seventy-five percent of the eligible design and construction costs of such program and which are not recovered from or reimbursed or paid by a responsible party or the federal government.

§ 27-1207. Use and reporting of solid waste and drinking water response account.

1. The solid waste and drinking water response account shall be made available to the department 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 cleanup of solid waste sites;
- d. mitigation of drinking water contamination;
- e. monitoring of solid waste sites; and
- f. administration and enforcement of the requirements of this title.

2. On or before July first, two thousand nineteen and July first of each succeeding year, the department shall report on the status of the program.

§ 27-1209. Rules and regulations.

The commissioner shall have the power to promulgate rules and regulations necessary and appropriate to carry out the purposes of this title.

§ 5. Subdivisions 1, 2 and 6 and paragraphs (i) and (j) of subdivision 3 of section 97-b of the state finance law, subdivision 1 as amended and paragraph (j) of subdivision 3 as added by section 4 of part I of chapter 1 of the laws of 2003, subdivision 2 as amended by section 5 of part X of chapter 58 of the laws of 2015, paragraph (i) of subdivision 3 as amended by section 1 of part R of chapter 59 of the laws of 2007, subdivision 6 as amended by chapter 38 of the laws of 1985, are amended and a new paragraph (k) is added to subdivision 3 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" and a "solid waste and drinking water response account".

2. Such fund shall consist of all of the following:

- (a) [~~moneys appropriated for transfer to the fund's site investigation and construction account,~~ (b) ~~all fines and other sums accumulated in the fund prior to April first, nineteen hundred eighty-eight pursuant to section 71-2725 of the environmental conservation law for deposit in the fund's site investigation and construction account,~~ (c)] all moneys



1 collected or received by the department of taxation and finance pursuant  
2 to section 27-0923 of the environmental conservation law for deposit in  
3 the fund's industry fee transfer account; [~~(d)~~] (b) all moneys paid into  
4 the fund pursuant to section 72-0201 of the environmental conservation  
5 law which shall be deposited in the fund's industry fee transfer  
6 account; [~~(e)~~] (c) all moneys paid into the fund pursuant to paragraph  
7 (b) of subdivision one of section one hundred eighty-six of the naviga-  
8 tion law which shall be deposited in the fund's industry fee transfer  
9 account; [~~(f)~~] (d) all [~~monies~~] moneys recovered under sections 56-0503,  
10 56-0505 and 56-0507 of the environmental conservation law into the  
11 fund's environmental restoration project account; [~~(g)~~] (e) all fees  
12 paid into the fund pursuant to section 72-0402 of the environmental  
13 conservation law which shall be deposited in the fund's industry fee  
14 transfer account; [~~(h)~~] (f) payments received for all state costs  
15 incurred in negotiating and overseeing the implementation of brownfield  
16 site cleanup agreements pursuant to title fourteen of article twenty-  
17 seven of the environmental conservation law shall be deposited in the  
18 hazardous waste remediation oversight and assistance account; (g) all  
19 moneys recovered pursuant to title twelve of article twenty-seven of the  
20 environmental conservation law into the fund's solid waste and drinking  
21 water response account and [~~(i)~~] (h) other moneys credited or trans-  
22 ferred thereto from any other fund or source for deposit in the fund's  
23 [~~site investigation and construction~~] hazardous waste cleanup account.

24 (i) with respect to moneys in the hazardous waste remediation over-  
25 sight and assistance account, non-bondable costs associated with hazard-  
26 ous waste remediation projects. Such costs shall be limited to agency  
27 staff costs associated with the administration of state assistance for  
28 brownfield opportunity areas pursuant to section nine hundred seventy-r  
29 of the general municipal law, agency staff costs associated with the  
30 administration of technical assistance grants pursuant to titles thir-  
31 teen and fourteen of article twenty-seven of the environmental conserva-  
32 tion law, and costs of the department of environmental conservation  
33 related to the geographic information system required by section 3-0315  
34 of the environmental conservation law; [~~and~~]

35 (j) with respect to moneys in the hazardous waste remediation over-  
36 sight and assistance account, technical assistance grants pursuant to  
37 titles thirteen and fourteen of article twenty-seven of the environ-  
38 mental conservation law[~~.~~]; and

39 (k) With respect to moneys in the solid waste and drinking water  
40 response account, when allocated, shall be available to the department  
41 of environmental conservation to undertake mitigation and cleanup as the  
42 department of environmental conservation may determine necessary due to  
43 environmental conditions related to a solid waste site pursuant to title  
44 twelve of article twenty-seven of the environmental conservation law  
45 which indicates that conditions on such property are impairing drinking  
46 water quality, ground water quality or creating other environmental  
47 contamination and to ensure the provision of safe drinking water in  
48 areas determined to have drinking water contamination by the department  
49 of health.

50 6. The commissioner of the department of environmental conservation  
51 shall make all reasonable efforts to recover the full amount of any  
52 funds expended from the fund pursuant to paragraph (a) and paragraph (k)  
53 of subdivision three of this section through litigation or cooperative  
54 agreements with responsible persons. Any and all moneys recovered or  
55 reimbursed pursuant to this section through voluntary agreements or

1 court orders shall be deposited with the comptroller and credited to the  
2 account of such fund from which such expenditures were made.

3 § 6. Section 97-b of the state finance law is amended by adding a new  
4 subdivision 16 to read as follows:

5 16. (a) All costs and damages for which a person is liable to the  
6 state of New York under titles twelve and thirteen of article twenty-  
7 seven of the environmental conservation law shall constitute a lien in  
8 favor of the state upon all real property and rights to such property  
9 which: (i) belongs to such person; and (ii) are subject to mitigation or  
10 cleanup pursuant to title twelve of article twenty-seven of the environ-  
11 mental conservation law or an inactive hazardous waste disposal site  
12 remedial program pursuant to title thirteen of article twenty-seven of  
13 the environmental conservation law.

14 (b) The lien imposed by this subdivision shall arise at the later of  
15 the following: (i) the time costs are first incurred by the state with  
16 respect to a response action pursuant to titles twelve and thirteen of  
17 article twenty-seven of the environmental conservation law; or (ii) the  
18 time that the person referred to in paragraph (a) of this subdivision is  
19 provided (by certified or registered mail) written notice of potential  
20 liability. Such lien shall continue until the liability for the costs,  
21 or a judgment against the person arising out of such liability, is  
22 satisfied, becomes unenforceable, is otherwise vacated by court order or  
23 is released by the commissioner of environmental conservation where a  
24 legally enforceable agreement satisfactory to the commissioner has been  
25 executed relating to the cleanup and removal costs and damage costs or  
26 reimbursing the hazardous waste remedial fund for cleanup and removal  
27 costs and damage costs, or the attachment or enforcement of the lien is  
28 determined by the commissioner not to be in the public interest.

29 (c) The lien shall state: (i) that the lienor is the hazardous waste  
30 remedial fund; (ii) the name of record owner of the real property on  
31 which the lien has attached; (iii) the real property subject to the  
32 lien, with a description thereof sufficient for identification; (iv)  
33 that the real property described in the notice is or has been subject to  
34 mitigation or cleanup pursuant to title twelve of article twenty-seven  
35 of the environmental conservation law or an inactive hazardous waste  
36 disposal site remedial program pursuant to title thirteen of article  
37 twenty-seven of the environmental conservation law and that costs have  
38 been incurred by the lienor as a result of such activities; (v) that the  
39 owner is potentially liable for costs; and (vi) that a lien has attached  
40 to the described real property.

41 (d) The lien imposed by this subdivision shall be subject to the  
42 rights of any purchaser entitled to the affirmative defense set forth in  
43 subparagraph three of paragraph (a) of subdivision four of section  
44 27-1323 of the environmental conservation law, holder of a security  
45 interest, or judgment lien creditor whose interest is perfected under  
46 New York state law before notice of the lien has been filed pursuant to  
47 paragraph (e) of this subdivision.

48 (e) A notice of lien imposed by this subdivision shall be filed pursu-  
49 ant to the requirements of section one hundred eighty-one-c of the navi-  
50 gation law; provided however, that a copy of the notice of lien is  
51 served upon the owner of the real property subject to the lien in  
52 accordance with the provisions of section eleven of the lien law.

53 (f) The costs constituting the lien may be recovered in an action in  
54 rem in a court of competent jurisdiction. Nothing in this subdivision  
55 shall affect the right of the state to bring an action against any  
56 person to recover all costs and damages for which such person is liable

1 under titles twelve and thirteen of article twenty-seven of the environ-  
2 mental conservation law.

3 § 7. The public authorities law is amended by adding a new section  
4 1285-s to read as follows:

5 § 1285-s. New York state regional water infrastructure projects. 1.  
6 For purposes of this section, "municipality" means any county, city,  
7 town, village, district corporation, county or town improvement  
8 district, any public benefit corporation or public authority established  
9 pursuant to the laws of New York or any agency of New York state which  
10 is empowered to construct and operate a waste water or drinking water  
11 infrastructure project, or any two or more of the foregoing which are  
12 acting jointly in connection with such a project.

13 2. (a) The corporation shall establish, with funds appropriated for  
14 such purpose, a New York state regional water infrastructure grants  
15 program to provide state assistance to municipalities for waste water  
16 and drinking water infrastructure projects that have a regional impact  
17 or demonstrated efficiencies. Such regional projects shall benefit or  
18 serve multiple municipalities, and may include shared infrastructure,  
19 consolidation or interconnection of systems of multiple municipalities,  
20 or projects that otherwise achieve efficiencies.

21 (b) A municipality may make an application for a regional water  
22 infrastructure grant in a manner, form and timeframe and containing such  
23 information as the corporation may require provided however, such  
24 requirements shall not include a requirement for prior listing on the  
25 intended use plan.

26 3. Moneys for the regional water infrastructure grants program shall  
27 be segregated from all other funds of or in the custody of the corpo-  
28 ration and shall only be used to provide state assistance to munici-  
29 palities in accordance with the provisions of this section and to  
30 provide for the administrative and management costs of the program.

31 4. Moneys for the regional water infrastructure grants program may be  
32 invested as provided in subdivision six of section twelve hundred eight-  
33 y-five-j of this title.

34 5. Contracts for the construction of projects financed with state  
35 assistance made available pursuant to this section shall be subject to  
36 the requirements of section two hundred twenty of the labor law and  
37 shall be considered "state contracts" subject to the requirements and  
38 provisions of article fifteen-A of the executive law.

39 § 8. Section 1285-q of the public authorities law, as added by section  
40 6 of part I of chapter 1 of the laws of 2003, subdivisions 1 and 3 as  
41 amended by section 43 of part BB of chapter 56 of the laws of 2015, is  
42 amended to read as follows:

43 § 1285-q. Financing of hazardous waste site remediation and solid  
44 waste and drinking water response site projects. In order to effectuate  
45 the purposes of this title, the corporation shall have the following  
46 additional special powers:

47 1. Subject to chapter fifty-nine of the laws of two thousand, but  
48 notwithstanding any other provisions of law to the contrary, in order to  
49 assist the corporation in undertaking the administration and the financ-  
50 ing of hazardous waste site remediation projects for payment of the  
51 state's share of the costs of the remediation of hazardous waste sites  
52 and solid waste and drinking water response sites, in accordance with  
53 ~~[title]~~ titles twelve and thirteen of article twenty-seven of the envi-  
54 ronmental conservation law and section ninety-seven-b of the state  
55 finance law, and for payment of state costs associated with the remedi-  
56 ation of offsite contamination at significant threat sites as provided

1 in section 27-1411 of the environmental conservation law, and beginning  
2 in state fiscal year two thousand fifteen - two thousand sixteen for  
3 environmental restoration projects pursuant to title five of article  
4 fifty-six of the environmental conservation law provided that funding  
5 for such projects shall not exceed ten percent of the funding appropri-  
6 ated for the purposes of financing hazardous waste site remediation  
7 projects, pursuant to ~~[title]~~ titles twelve and thirteen of article  
8 twenty-seven of the environmental conservation law in any state fiscal  
9 year pursuant to capital appropriations made to the department of envi-  
10 ronmental conservation, the director of the division of budget and the  
11 corporation are each authorized to enter into one or more service  
12 contracts, none of which shall exceed twenty years in duration, upon  
13 such terms and conditions as the director and the corporation may agree,  
14 so as to annually provide to the corporation in the aggregate, a sum not  
15 to exceed the annual debt service payments and related expenses required  
16 for any bonds and notes authorized pursuant to section twelve hundred  
17 ninety of this title. Any service contract entered into pursuant to this  
18 section shall provide that the obligation of the state to fund or to pay  
19 the amounts therein provided for shall not constitute a debt of the  
20 state within the meaning of any constitutional or statutory provision  
21 and shall be deemed executory only to the extent of moneys available for  
22 such purposes, subject to annual appropriation by the legislature. Any  
23 such service contract or any payments made or to be made thereunder may  
24 be assigned and pledged by the corporation as security for its bonds and  
25 notes, as authorized pursuant to section twelve hundred ninety of this  
26 title.

27 2. The comptroller is hereby authorized to receive from the corpo-  
28 ration any portion of bond proceeds paid to provide funds for or reim-  
29 burse the state for its costs associated with any hazardous waste site  
30 remediation and solid waste and drinking water response projects and to  
31 credit such amounts to the capital projects fund or any other appropri-  
32 ate fund.

33 3. The maximum amount of bonds that may be issued for the purpose of  
34 financing hazardous waste site remediation and solid waste and drinking  
35 water response projects and environmental restoration projects author-  
36 ized by this section shall not exceed two billion two hundred million  
37 dollars and shall not exceed one hundred million dollars for appropri-  
38 ations enacted for any state fiscal year, provided that the bonds not  
39 issued for such appropriations may be issued pursuant to reappropriation  
40 in subsequent fiscal years. No bonds shall be issued for the repayment  
41 of any new appropriation enacted after March thirty-first, two thousand  
42 twenty-six for hazardous waste site remediation projects authorized by  
43 this section. Amounts authorized to be issued by this section shall be  
44 exclusive of bonds issued to fund any debt service reserve funds, pay  
45 costs of issuance of such bonds, and bonds or notes issued to refund or  
46 otherwise repay bonds or notes previously issued. Such bonds and notes  
47 of the corporation shall not be a debt of the state, and the state shall  
48 not be liable thereon, nor shall they be payable out of any funds other  
49 than those appropriated by this state to the corporation for debt  
50 service and related expenses pursuant to any service contracts executed  
51 pursuant to subdivision one of this section, and such bonds and notes  
52 shall contain on the face thereof a statement to such effect.

53 § 9. Subdivision 9 of section 97-b of the state finance law is  
54 REPEALED.

§ 10. Subdivision 4 of section 52-0303 of the environmental conservation law, as added by chapter 512 of the laws of 1986, is amended to read as follows:

4. A provision that in the event that any federal payments and responsible party payments become available which were not included in the calculation of the state share pursuant to subdivision two of this section, the amount of the state share shall be recalculated accordingly and the municipality shall pay to the state for deposit in the ~~[design and construction]~~ hazardous waste cleanup account of the hazardous waste remedial fund established under section ninety-seven-b of the state finance law the amount by which the state payment actually made exceeds the recalculated state share.

§ 11. The opening paragraph, and paragraphs i and j of subdivision 4 of section 27-1305 of the environmental conservation law, as amended by section 3 of part E of chapter 1 of the laws of 2003, are amended to read as follows:

On or before July first, nineteen hundred eighty-six and July first of each succeeding year, the department shall prepare a status report on the implementation of the plan, and an update of the policies, program objectives, methods and strategies as outlined in the plan which guide the overall inactive hazardous waste site remediation program and solid waste site and drinking water response mitigation and cleanup programs. Such status report shall reflect information available to the department as of March thirty-first of each year, and shall include an accounting of all ~~[monies]~~ moneys expended or encumbered from the environmental quality bond act of nineteen hundred eighty-six or the hazardous waste remedial fund during the preceding fiscal year, such accounting to separately list:

i. ~~[monies]~~ moneys expended or encumbered in stand-by contracts entered into pursuant to section 3-0309 of this chapter and the purposes for which these stand-by contracts were entered into; ~~[and]~~

j. moneys expended or encumbered pursuant to title twelve of this article; and

k. an accounting of payments received and payments obligated to be received pursuant to this title and title twelve of this article, and a report of the department's attempts to secure such obligations.

§ 12. Subparagraph (ii) of paragraph b of subdivision 3 of section 27-1313 of the environmental conservation law is REPEALED.

§ 13. Paragraph b of subdivision 1 and paragraphs b and f of subdivision 5 of section 27-1313 of the environmental conservation law, paragraph b of subdivision 1 as added by section 5 of part E of chapter 1 of the laws of 2003, paragraph b as amended by and paragraph f of subdivision 5 as added by chapter 857 of the laws of 1982, are amended and a new subdivision 11 is added to read as follows:

b. The department shall have the authority to require, and may undertake directly, the development and implementation of a department-approved inactive hazardous waste disposal site remedial program, in accordance with section ninety-seven-b of the state finance law.

b. In the event that the commissioner has found that hazardous wastes at a site constitute a significant threat to the environment, but after a reasonable attempt to determine who may be responsible is either unable to determine who may be responsible, ~~[or]~~ is unable to locate a person who may be responsible, or is unable after making all reasonable effort to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators or other responsible persons, the department may develop and implement an inactive hazardous waste



1 disposal site remedial program for such site. The commissioner shall  
2 make every effort, in an action brought before a court of appropriate  
3 jurisdiction or in accordance with the requirements for notice, hearing  
4 and review provided for in this title, to secure appropriate relief from  
5 any person subsequently identified or located who is responsible for the  
6 disposal of hazardous waste at such site, including, but not limited to,  
7 development and implementation of an inactive hazardous waste disposal  
8 site remedial program, payment of the cost of such a program, recovery  
9 of any reasonable expenses incurred by the state, money damages and  
10 penalties.

11 f. The commissioner shall make every effort, in an action brought  
12 before a court of appropriate jurisdiction or in accordance with the  
13 requirements for notice, hearing and review provided for in this title  
14 to secure appropriate relief from the owner or operator of such site  
15 and/or any person responsible for the disposal of hazardous wastes at  
16 such site pursuant to applicable principles of statutory or common law  
17 liability, including, but not limited to, development and implementation  
18 of an inactive hazardous waste disposal site remedial program, payment  
19 of the cost of such program, recovery of any reasonable expenses  
20 incurred by the state, money damages and penalties.

21 11. A remedial decision by the state or the department or a response  
22 action taken by the department or ordered by the department under this  
23 section shall not constitute a final decision or order until the depart-  
24 ment files an action to enforce such decision or order or to collect a  
25 penalty for violation of such order or to recover its response costs.

26 § 14. The section heading and subdivision 1 of section 27-1316 of the  
27 environmental conservation law, as added by section 8 of part E of chap-  
28 ter 1 of the laws of 2003, are amended to read as follows:

29 [~~Citizen technical~~] Technical assistance grants.

30 1. The commissioner is authorized to provide, or order a person acting  
31 under order or on consent, to provide grants to any eligible munici-  
32 pality or not-for-profit corporation exempt from taxation under section  
33 501(c)(3) of the internal revenue code who may be affected by an inac-  
34 tive hazardous waste disposal site remedial program. To qualify to  
35 receive such assistance, a community group must demonstrate that its  
36 membership represents the interests of the community affected by such  
37 site, and that members', or in the case of a municipality its residents,  
38 health, economic well-being or enjoyment of the environment are poten-  
39 tially affected by such site. An eligible municipality shall be a coun-  
40 ty, city, town, village, or Indian tribe or nation residing within New  
41 York state, with a population of ten thousand or less, provided, howev-  
42 er, that the department may make a municipality eligible if it deter-  
43 mines that a municipality is a hardship community. A municipality shall  
44 not be eligible for a grant for any site which is owned or has been  
45 operated by such municipality. Such grants shall be known as technical  
46 assistance grants and may be used to obtain technical assistance in  
47 interpreting information with regard to the nature of the hazard posed  
48 by hazardous waste located at or emanating from an inactive hazardous  
49 waste disposal site or sites and the development and implementation of  
50 an inactive hazardous waste disposal site remedial program or programs.  
51 Such grants may also be used:

52 (a) to advise affected residents on any health assessment; and

53 (b) for training funds for the education of interested affected commu-  
54 nity members or municipality to enable them to more effectively partic-  
55 ipate in the remedy selection process.

1 Grants awarded under this section may not be used for the purposes of  
2 collecting field sampling data, political activity or lobbying legisla-  
3 tive bodies.

4 § 15. Subdivision 1 of section 27-1321 of the environmental conserva-  
5 tion law, as amended by section 22 of part G of chapter 58 of the laws  
6 of 2012, is amended to read as follows:

7 1. Notwithstanding any other provision of law to the contrary, any  
8 person who is, by professional training or experience and attainment,  
9 qualified to analyze and interpret matters pertaining to the treatment,  
10 storage, disposal, or transport of hazardous materials or hazardous  
11 wastes, and who voluntarily and without expectation of monetary compen-  
12 sation provides assistance or advice in mitigating the effects of an  
13 accidental or threatened discharge of any hazardous materials or hazard-  
14 ous wastes, or in preventing, cleaning up, or disposing of any such  
15 discharge, shall not be subject to a penalty or to civil liability for  
16 damages or injuries alleged to have been sustained by any person or  
17 entity by reason of an act or omission in the giving of such assistance  
18 or advice. For the purposes of this section, the term "hazardous materi-  
19 als" shall have the same meaning as that term is defined in regulations  
20 promulgated by the commissioner of transportation pursuant to section  
21 fourteen-f of the transportation law, and the term "hazardous wastes"  
22 shall mean those wastes identified or listed pursuant to subdivision one  
23 of section [27-0903] 27-1301 of this article and any rules and regu-  
24 lations promulgated thereunder.

25 § 16. Subdivision 10 of section 71-2702 of the environmental conserva-  
26 tion law, as added by chapter 671 of the laws of 1986, is amended to  
27 read as follows:

28 10. "Substance hazardous to public health, safety or the environment"  
29 means any substance which:

30 (a) is identified or listed as a hazardous waste in regulations  
31 promulgated pursuant to section 27-0903 of this chapter and all amend-  
32 ments thereto, regardless of whether at the time of release the  
33 substance was actually a waste; [REPEALED]

34 (b) appears on the list in regulations promulgated pursuant to para-  
35 graph (a) of subdivision one of section 37-0103 of this chapter and all  
36 amendments thereto[REPEALED];

37 (c) is petroleum; or

38 (d) poses a present or potential hazard to the environment when  
39 improperly treated, stored, transported, disposed of, or otherwise  
40 managed.

41 § 17. Paragraph a of subdivision 1 of section 71-2725 of the environ-  
42 mental conservation law is REPEALED.

43 § 18. Subdivision 4 of section 11-b of the soil and water conservation  
44 districts law, as amended by chapter 538 of the laws of 1996, is amended  
45 to read as follows:

46 4. Eligible costs that may be funded pursuant to this section are  
47 architectural and engineering services, plans and specifications,  
48 including watershed based or individual agricultural nonpoint source  
49 pollution assessments, consultant and legal services, conservation ease-  
50 ments and associated transaction costs specific to title thirty-three of  
51 article fifteen of the environmental conservation law and other direct  
52 expenses related to project implementation.

53 § 19. If any clause, sentence, paragraph, section or part of this act  
54 shall be adjudged by any court of competent jurisdiction to be invalid,  
55 such judgment shall not affect, impair or invalidate the remainder ther-  
56 eof, but shall be confined in its operation to the clause, sentence,

1 paragraph, section or part thereof directly involved in the controversy  
2 in which such judgment shall have been rendered.

3 § 20. This act shall take effect immediately.

4 PART JJ

5 Section 1. Paragraph (a) of subdivision 6 of section 92-s of the state  
6 finance law, as amended by chapter 432 of the laws of 1997, is amended  
7 to read as follows:

8 (a) All moneys heretofore and hereafter deposited in the environmental  
9 protection transfer account shall be transferred by the comptroller to  
10 the solid waste account, the parks, recreation and historic preservation  
11 account, the climate change mitigation and adaptation account or the  
12 open space account upon the request of the director of the budget.

13 § 2. Subdivision 5 of section 27-1012 of the environmental conserva-  
14 tion law, as amended by section 6 of part F of chapter 58 of the laws of  
15 2013, is amended to read as follows:

16 5. All monies collected or received by the department of taxation and  
17 finance pursuant to this title shall be deposited to the credit of the  
18 comptroller with such responsible banks, banking houses or trust compa-  
19 nies as may be designated by the comptroller. Such deposits shall be  
20 kept separate and apart from all other moneys in the possession of the  
21 comptroller. The comptroller shall require adequate security from all  
22 such depositories. Of the total revenue collected, the comptroller shall  
23 retain the amount determined by the commissioner of taxation and finance  
24 to be necessary for refunds out of which the comptroller must pay any  
25 refunds to which a deposit initiator may be entitled. After reserving  
26 the amount to pay refunds, the comptroller must, by the tenth day of  
27 each month, pay into the state treasury to the credit of the general  
28 fund the revenue deposited under this subdivision during the preceding  
29 calendar month and remaining to the comptroller's credit on the last day  
30 of that preceding month; provided, however, that, beginning April first,  
31 two thousand ~~[thirteen]~~ fourteen, and all fiscal years thereafter,  
32 ~~[fifteen]~~ twenty-three million dollars plus all funds received from the  
33 payments due each fiscal year pursuant to subdivision four of this  
34 section in excess of ~~[the amount received from April first, two thousand~~  
35 ~~twelve through March thirty first, two thousand thirteen]~~ one hundred  
36 twenty-two million two hundred thousand dollars, shall be deposited to  
37 the credit of the environmental protection fund established pursuant to  
38 section ninety-two-s of the state finance law.

39 § 3. This act shall take effect immediately and shall be deemed to  
40 have been in full force and effect on and after April 1, 2016.

41 PART KK

42 Section 1. Approximately 40 percent of the food produced in the United  
43 States today goes uneaten. Much of this organic waste is disposed of in  
44 solid waste landfills, where its decomposition accounts for over 15  
45 percent of our nation's emissions of methane, a potent greenhouse gas.  
46 Meanwhile, an estimated 2.8 million New Yorkers are facing hunger and  
47 food insecurity. This legislation is designed to address these multiple  
48 challenges by: encouraging the prevention of food waste generation by  
49 commercial generators and residents; directing the recovery of excess  
50 edible food from high-volume commercial food waste generators; and  
51 ensuring that a significant portion of inedible food waste from large

1 volume food waste generators is managed in a sustainable manner, and  
2 does not end up being sent to landfills or incinerators.

3 § 2. Article 27 of the environmental conservation law is amended by  
4 adding a new title 22 to read as follows:

5 TITLE 22

6 FOOD DONATION AND FOOD SCRAPS RECYCLING

7 Section 27-2201. Definitions.

8 27-2203. Designated food scraps generator responsibilities.

9 27-2205. Transporter responsibilities.

10 27-2207. Transfer station or other intermediary responsibil-  
11 ities.

12 27-2209. Food scraps disposal prohibition.

13 27-2211. Department responsibilities.

14 27-2213. Regulations.

15 27-2215. Exclusions.

16 27-2217. Preemption and severability.

17 § 27-2201. Definitions.

18 1. "Designated food scraps generator" means a person who generates at  
19 a single location an annual average of two tons per week or more of  
20 excess food and food scraps, including, but not limited to, supermar-  
21 kets, restaurants, higher educational institutions, hotels, food proces-  
22 sors, correctional facilities, sports or entertainment venues, hospitals  
23 and other health care facilities. For a location with multiple independ-  
24 ent food service businesses, such as a mall or college campus, the enti-  
25 ty responsible for contracting for solid waste hauling services is  
26 responsible for managing excess food and food scraps from the independ-  
27 ent businesses.

28 2. "Excess food" means edible food that is not sold or used by its  
29 generator.

30 3. "Food scraps" means inedible food, trimmings from the preparation  
31 of food, food-soiled paper, and edible food that is not donated. Food  
32 scraps shall not include food from residential sources or any food which  
33 is subject to a recall or seizure due to the presence of pathogens,  
34 including but not limited to: Listeria Monocytogenes, confirmed Clos-  
35 tridium Botulinum, E. coli 0157:H7 and all salmonella in ready-to-eat  
36 foods.

37 4. "Organics recycler" means a facility that recycles food scraps  
38 through use as animal feed or a feed ingredient, rendering, land appli-  
39 cation, composting, aerobic digestion, anaerobic digestion, or ethanol  
40 production. Animal scraps, food soiled paper, and post-consumer food  
41 scraps are prohibited for use as animal feed or as a feed ingredient.  
42 The product created from food scraps by a composting or digestion facil-  
43 ity, or other treatment system, must be used in a beneficial manner as a  
44 soil amendment and shall not be combusted or landfilled. The department  
45 may designate other techniques or technologies by regulation, provided  
46 they do not include combustion or landfilling.

47 5. "Person" means any individual, business entity, partnership, compa-  
48 ny, corporation, not-for-profit corporation, association, governmental  
49 entity, public benefit corporation, public authority, firm, organization  
50 or any other group of individuals, or any officer or employee or agent  
51 thereof.

52 6. "Single location" means contiguous property under common ownership,  
53 which may include one or more buildings.

54 § 27-2203. Designated food scraps generator responsibilities.

55 1. No later than January first, two thousand twenty-one:

1 (a) all designated food scraps generators shall separate their excess  
2 food for donation for human consumption to the maximum extent practica-  
3 ble, and in accordance with applicable laws, rules and regulations  
4 related to food donation; and

5 (b) except as provided by in paragraph (c) of this subdivision, each  
6 designated food scraps generator that is within fifty miles of an organ-  
7 ics recycler, to the extent that the recycler has capacity to accept a  
8 substantial portion or all of the generator's excess food and food  
9 scraps as determined by the department on a yearly basis, shall:

10 (i) separate its remaining excess food and food scraps from other  
11 solid waste that cannot be effectively processed by the organics recy-  
12 cler that will be managing the materials. Whenever practicable, excess  
13 food and food scraps should be removed from packaging at the point of  
14 generation or be sent to a facility that can remove the packaging from  
15 the product;

16 (ii) ensure proper storage for excess food and food scraps collection  
17 on site which shall preclude such materials from becoming odorous or  
18 attracting vectors;

19 (iii) post instructions and provide training for employees concerning  
20 the proper methods to separate and store excess food and food scraps;  
21 and

22 (iv) obtain a transporter that will deliver its excess food and food  
23 scraps to an organics recycler, either directly or through an interme-  
24 diary, self-haul its food scraps to an organics recycler, either direct-  
25 ly or through an intermediary, or provide for organics recycling  
26 on-site.

27 (c) The provisions of paragraph (b) of this subdivision shall not  
28 apply to any designated food scraps generator that has all of its solid  
29 waste processed in a mixed solid waste composting or mixed solid waste  
30 anaerobic digestion facility.

31 2. All designated food scraps generators shall submit an annual report  
32 to the department on or before March first, two thousand twenty-two, and  
33 annually thereafter, in an electronic format. The annual report must  
34 summarize the amount of excess food donated and the amount of excess  
35 food not donated, the amount of food scraps recycled, the organics recy-  
36 cler or recyclers and associated transporters used, and any other infor-  
37 mation as required by the department.

38 3. A designated food scraps generator may petition the department for  
39 a temporary waiver from some or all of the requirements of this title.  
40 The petition must include evidence of undue hardship based on the unique  
41 circumstances of the generator. A waiver shall be no longer than one  
42 year in duration.

43 § 27-2205. Transporter responsibilities.

44 1. Any transporter that collects source-separated excess food and food  
45 scraps for recycling from a designated food scraps generator shall:

46 (a) deliver collected excess food and food scraps to a transfer  
47 station or other intermediary that will deliver such excess food and  
48 food scraps to an organics recycler; or

49 (b) deliver such food scraps directly to an organics recycler.

50 2. Any transporter that collects source-separated excess food and food  
51 scraps from a designated food scraps generator shall not deliver those  
52 excess food and food scraps to a combustion facility or a landfill nor  
53 commingle the material with any other solid waste unless such waste can  
54 be processed by an organics recycler.

55 § 27-2207. Transfer station or other intermediary responsibilities.



1 Any transfer station or other intermediary that receives source-sepa-  
2 rated excess food and food scraps from a designated food scraps genera-  
3 tor must ensure that the food scraps are taken to an organics recycler.  
4 No transfer station or other intermediary may commingle the material  
5 with any other solid waste unless such waste can be processed by an  
6 organics recycler.

7 § 27-2209. Food scraps disposal prohibition.

8 Solid waste combustion facilities and landfills shall not accept  
9 source-separated excess food and food scraps from designated food scraps  
10 generators required to send their excess food not donated and food  
11 scraps to an organics recycler as outlined under section 27-2203 of this  
12 title, either directly or from an intermediary, after January first, two  
13 thousand twenty-one, unless the designated food scraps generator has  
14 received a temporary waiver under subdivision three of section 27-2203  
15 of this title.

16 § 27-2211. Department responsibilities.

17 1. The department shall, in consultation with industry represen-  
18 tatives, publish on its website: (a) the methodology the department will  
19 use to determine who is a designated food scrap generator; and (b) a  
20 list of all designated food scraps generators, organics recyclers, and  
21 all transporters that manage source-separated organics.

22 2. No later than October first, two thousand twenty, the department  
23 shall assess the capacity of organic recyclers and notify designated  
24 food scraps generators if they are required to comply with the  
25 provisions of paragraph (b) of subdivision one of section 27-2203 of  
26 this title.

27 3. The department shall develop and make available educational materi-  
28 als to assist designated food scraps generators with compliance with  
29 this title. The department shall also develop education materials on  
30 food waste minimization and encourage municipalities to disseminate  
31 these materials both on their municipal websites and in any such future  
32 mailings to their residents as they may distribute.

33 § 27-2213. Regulations.

34 The department may promulgate rules and regulations necessary to  
35 implement the provisions of this title. At a minimum, the department  
36 shall promulgate rules and regulations that set forth how designated  
37 food scraps generators shall comply with the provisions of paragraph (a)  
38 and subparagraph (i) of paragraph (b) of subdivision one of section  
39 27-2203 of this title.

40 § 27-2215. Exclusions.

41 1. This title shall not apply to any designated food scraps generators  
42 located in a city with a population of one million or more which has a  
43 local law, ordinance or regulation in place which requires the diversion  
44 of excess food and food scraps from disposal.

45 2. This title does not apply to elementary and secondary schools.

46 § 27-2217. Preemption and severability.

47 1. Any provision of any local law or ordinance, or any regulation  
48 promulgated thereto, governing the recycling of food scraps shall upon  
49 the effective date of this title be preempted, except in a city with a  
50 population of one million or more. However, local laws or ordinances,  
51 or parts thereof, affecting the recycling of food scraps that include  
52 generators not covered by this title shall not be preempted.

53 2. The provisions of this title shall be severable and if any portion  
54 thereof or the applicability thereof to any person or circumstances is  
55 held invalid, the remainder of this title and the application thereof  
56 shall not be affected thereby.

§ 3. This act shall take effect immediately.

PART LL

Section 1. The public authorities law is amended by adding a new section 1005-d to read as follows:

§ 1005-d. Sharing employees, services and resources; indemnity and defense. 1. For the purposes of this section, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(a) "Department" means the department of transportation.

(b) "Services and assistance" includes but is not limited to engineering services; environmental sampling and testing; facility, property, infrastructure and equipment maintenance; and equipment and materials storage.

2. One or more shared services agreements may be executed between the department and the authority, canal corporation, or both of them, only for (a) an emergency situation, (b) extreme weather conditions, and (c) the provision of services and assistance to support the operation and maintenance of the canal system and related infrastructure, as deemed appropriate, including but limited to share employees, services or resources as deemed appropriate including, but not limited to, for the performance of work and activities by the department on the facilities and property under the jurisdiction of the authority or canal corporation, and for the performance of work and activities by the authority or canal corporation on the facilities and property under the jurisdiction of the department. Such agreement or any project undertaken pursuant to such an agreement shall not be deemed to impair the rights of bondholders and may provide for, but not be limited to, the management, supervision and direction of such employees' performance of such services. All shared employees shall remain employees of their respective employers and all applicable collectively bargained agreements shall remain in effect for the entire length of the shared services agreement. Further, such shared services agreement shall not amend, repeal or replace the terms of any agreement that is collectively negotiated between an employer and an employee organization, including an agreement or interest arbitration award made pursuant to article fourteen of the civil service law.

3. The authority shall defend any unit, entity, officer or employee of the department, using the forces of the department of law pursuant to subdivision eleven of this section in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the authority or canal corporation pursuant to a shared services agreement.

4. Defense pursuant to subdivision three of this section shall be conditioned upon the full cooperation of the department.

5. The authority shall indemnify and hold harmless any unit, entity, officer or employee of the department in the amount of any judgment obtained against the department or in the amount of any settlement the department enters into with the consent of the authority for any and all claims, damages or liabilities arising from or occasioned by the acts or omissions to act of the authority or canal corporation pursuant to a shared services agreement; provided, however, that the act or omission from which such judgment or settlement arose occurred while the authority or canal corporation was acting within the scope of its functions pursuant to a shared services agreement. No such settlement of any such

1 action, proceeding, claim or demand shall be made without the approval  
2 of the authority's board of trustees or its designee.

3 6. Any claim or proceeding commenced against any unit, entity, officer  
4 or employee of the authority or canal corporation that arises pursuant  
5 to any shared services agreement shall not be construed in any way to  
6 impair, alter, limit, modify, abrogate or restrict any immunity avail-  
7 able to or conferred upon any unit, entity, officer or employee of the  
8 authority or canal corporation, or to impair, alter, limit, modify,  
9 abrogate or restrict any right to defense and indemnification provided  
10 for any governmental officer or employee by, in accordance with, or by  
11 reason of, any other provision of state or federal statutory or common  
12 law.

13 7. (a) The state shall defend any unit, entity, officer or employee of  
14 the authority and canal corporation using the forces of the department  
15 of law in any action, proceeding, claim, demand or the prosecution of  
16 any appeal arising from or occasioned by the acts or omissions to act in  
17 the performance of the functions of the department pursuant to a shared  
18 services agreement.

19 (b) Defense pursuant to paragraph (a) of this subdivision shall be  
20 conditioned upon the full cooperation of the authority and canal corpo-  
21 ration.

22 (c) The state shall indemnify and hold harmless any unit, entity,  
23 officer or employee of the authority or canal corporation in the amount  
24 of any judgment obtained against the authority or canal corporation in  
25 the amount of any settlement the authority or canal corporation enters  
26 into with the consent of the state for any and all claims, damages or  
27 liabilities arising from or occasioned by the acts or omissions to act  
28 on behalf of the department pursuant to a shared services agreement,  
29 provided, however, that the act or omission from which such judgment or  
30 settlement arose occurred while the department was acting within the  
31 scope of its functions pursuant to a shared services agreement. Any such  
32 settlement shall be executed pursuant to section twenty-a of the court  
33 of claims act.

34 (d) Any claim or proceeding commenced against any unit, entity, offi-  
35 cer or employee of the department pursuant to any shared services agree-  
36 ment shall not be construed in any way to impair, alter, limit, modify,  
37 abrogate or restrict any immunity available to or conferred upon any  
38 unit, entity, officer or employee of the department, or to impair,  
39 alter, limit, modify, abrogate or restrict any right to defense and  
40 indemnification provided for any governmental officer or employee by, in  
41 accordance with, or by reason of, any other provision of state or feder-  
42 al statutory or common law.

43 (e) Any payment made pursuant to this subdivision or any monies paid  
44 for a claim against or settlement with the department, authority or  
45 canal corporation pursuant to this subdivision and pursuant to a shared  
46 services agreement shall be paid from appropriations for payment by the  
47 state pursuant to the court of claims act.

48 8. This section shall not in any way affect the obligation of any  
49 claimant to give notice to the state, authority, or canal corporation  
50 under section ten and section eleven of the court of claims act or any  
51 other provision of law provided, however, that notice served upon the  
52 state, authority, or canal corporation who is a party to the shared  
53 services agreement shall be valid notice on all parties to the agree-  
54 ment, when such claim arises out of such shared services agreement. The  
55 state, authority and canal corporation shall notify each other when they

1 receive a notice of claim, notice of intention to make a claim or a  
2 claim arising out of such agreement.

3 9. The provisions of this section shall not be construed to impair,  
4 alter, limit or modify the rights and obligations of any insurer under  
5 any insurance agreement.

6 10. Notwithstanding any other provision of law, when employed pursuant  
7 to a shared services agreement, employees of the authority, canal corpo-  
8 ration and department shall be deemed employees of all such entities and  
9 the state for purposes of the workers' compensation law.

10 11. At the request of the authority or canal corporation, services and  
11 assistance and legal services for the authority or canal corporation  
12 shall be performed by forces or officers of the department and the  
13 department of law respectively, and all other state officers, depart-  
14 ments, boards, divisions and commissions shall render services within  
15 their respective functions.

16 § 2. Subdivision 1 of section 17 of the public officers law is amended  
17 by adding a new paragraph (z) to read as follows:

18 (z) For purposes of this section, the term "employee" shall include  
19 members of the governing boards, officers and employees of the power  
20 authority of the state of New York or its subsidiaries.

21 § 3. This act, being necessary for the prosperity of the state and its  
22 inhabitants, shall be liberally construed to effect the purposes and  
23 secure the beneficial intents hereof.

24 § 4. If any provision of any section of this act or the application  
25 thereof to any person or circumstance shall be adjudged invalid by a  
26 court of competent jurisdiction, such order or judgment shall be  
27 confined in its operation to the controversy in which it was rendered,  
28 and shall not affect or invalidate the remainder of any provision of any  
29 section of this act or the application thereof to any other person or  
30 circumstance and to this end the provisions of each section of this act  
31 are hereby declared to be severable.

32 § 5. This act shall take effect immediately.

33 PART MM

34 Section 1. Expenditures of moneys by the New York state energy  
35 research and development authority for services and expenses of the  
36 energy research, development and demonstration program, including  
37 grants, the energy policy and planning program, the zero emissions vehi-  
38 cle and electric vehicle rebate program, and the Fuel NY program shall  
39 be subject to the provisions of this section. Notwithstanding the  
40 provisions of subdivision 4-a of section 18-a of the public service law,  
41 all moneys committed or expended in an amount not to exceed \$19,700,000  
42 shall be reimbursed by assessment against gas corporations, as defined  
43 in subdivision 11 of section 2 of the public service law and electric  
44 corporations as defined in subdivision 13 of section 2 of the public  
45 service law, where such gas corporations and electric corporations have  
46 gross revenues from intrastate utility operations in excess of \$500,000  
47 in the preceding calendar year, and the total amount which may be  
48 charged to any gas corporation and any electric corporation shall not  
49 exceed one cent per one thousand cubic feet of gas sold and .010 cent  
50 per kilowatt-hour of electricity sold by such corporations in their  
51 intrastate utility operations in calendar year 2015. Such amounts shall  
52 be excluded from the general assessment provisions of subdivision 2 of  
53 section 18-a of the public service law. The chair of the public service  
54 commission shall bill such gas and/or electric corporations for such

1 amounts on or before August 10, 2017 and such amounts shall be paid to  
2 the New York state energy research and development authority on or  
3 before September 10, 2017. Upon receipt, the New York state energy  
4 research and development authority shall deposit such funds in the ener-  
5 gy research and development operating fund established pursuant to  
6 section 1859 of the public authorities law. The New York state energy  
7 research and development authority is authorized and directed to: (1)  
8 transfer \$1 million to the state general fund for services and expenses  
9 of the department of environmental conservation, \$150,000 to the state  
10 general fund for services and expenses of the department of agriculture  
11 and markets, and \$750,000 to the University of Rochester laboratory for  
12 laser energetics from the funds received; and (2) commencing in 2016,  
13 provide to the chair of the public service commission and the director  
14 of the budget and the chairs and secretaries of the legislative fiscal  
15 committees, on or before August first of each year, an itemized record,  
16 certified by the president and chief executive officer of the authority,  
17 or his or her designee, detailing any and all expenditures and commit-  
18 ments ascribable to moneys received as a result of this assessment by  
19 the chair of the department of public service pursuant to section 18-a  
20 of the public service law. This itemized record shall include an item-  
21 ized breakdown of the programs being funded by this section and the  
22 amount committed to each program. The authority shall not commit for  
23 any expenditure, any moneys derived from the assessment provided for in  
24 this section, until the chair of such authority shall have submitted,  
25 and the director of the budget shall have approved, a comprehensive  
26 financial plan encompassing all moneys available to and all anticipated  
27 commitments and expenditures by such authority from any source for the  
28 operations of such authority. Copies of the approved comprehensive  
29 financial plan shall be immediately submitted by the chair to the chairs  
30 and secretaries of the legislative fiscal committees. Any such amount  
31 not committed by such authority to contracts or contracts to be awarded  
32 or otherwise expended by the authority during the fiscal year shall be  
33 refunded by such authority on a pro-rata basis to such gas and/or elec-  
34 tric corporations, in a manner to be determined by the department of  
35 public service.

36 § 2. This act shall take effect immediately and shall be deemed to  
37 have been in full force and effect on and after April 1, 2017.

38 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
39 sion, section or part of this act shall be adjudged by any court of  
40 competent jurisdiction to be invalid, such judgment shall not affect,  
41 impair, or invalidate the remainder thereof, but shall be confined in  
42 its operation to the clause, sentence, paragraph, subdivision, section  
43 or part thereof directly involved in the controversy in which such judg-  
44 ment shall have been rendered. It is hereby declared to be the intent of  
45 the legislature that this act would have been enacted even if such  
46 invalid provisions had not been included herein.

47 § 3. This act shall take effect immediately provided, however, that  
48 the applicable effective date of Parts A through MM of this act shall be  
49 as specifically set forth in the last section of such Parts.