

STATE OF NEW YORK

S. 7508

A. 9508

SENATE - ASSEMBLY

January 22, 2020

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means

AN ACT to amend the highway law and the transportation law, in relation to consolidated local highway assistance payments (Part A); to amend the vehicle and traffic law in relation to penalties for commercial vehicles on parkways and penalties for over-height vehicles (Part B); to amend the vehicle and traffic law, in relation to the display of amber and blue lights on safety service patrol vehicles (Part C); to amend the penal law and the vehicle and traffic law, in relation to highway worker safety (Subpart A); to amend the vehicle and traffic law and the highway law, in relation to highway clearance (Subpart B); and to amend the vehicle and traffic law, in relation to increased fines for injury to pedestrians (Subpart C) (Part D); to amend the vehicle and traffic law, in relation to the maximum dimension of certain vehicles proceeding to and from the New York state thruway authority (Part E); to amend the public authorities law, in relation to agreements for fiber optics (Part F); to amend the public authorities law and the highway law, in relation to consolidation of the New York state bridge authority with the New York state thruway authority; and to repeal title 2 of article 3 of the public authorities law relating thereto (Part G); to amend the vehicle and traffic law, in relation to penalties for unlicensed operation of ground transportation to and from airports (Part H); to amend the public authorities law, in relation to setting the aggregate principal amount of bonds the Metropolitan transit authority, the Triborough bridge and tunnel authority and the New York city transit authority can issue (Part I); to amend the public authorities law, in relation to procurements conducted by the New York City transit authority and the metropolitan transportation authority; to amend part 00 of chapter 54 of the laws of 2016, amending the public authorities law relating to procurements by the New York City transit authority and the metropolitan transportation authority, in relation to the effectiveness thereof; and to

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

LBD12673-01-0

repeal certain provisions of the public authorities law relating thereto (Part J); to amend chapter 54 of the laws of 2016 amending the general municipal law relating to the New York transit authority and the metropolitan transportation authority, in relation to extending authorization for tax increment financing for the metropolitan transportation authority (Part K); to amend the public authorities law, in relation to providing the metropolitan transit authority the right to enter private property to trim trees and vegetation for safety purposes (Part L); to amend the penal law, in relation to including the intentional use of any toll highway, parkway, road, bridge or tunnel or entry into or remaining in a tolled central business district without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to 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 M); to amend the penal law, in relation to assaulting certain employees of a transit agency or authority (Part N); to amend the penal law, in relation to harassing certain employees of a transit agency or authority (Part O); to amend the penal law and the public authorities law, in relation to transit crimes and prohibition orders relating to such crimes (Part P); 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 Q); 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 effectiveness thereof (Part R); to amend the general business law, in relation to prohibiting gender discrimination within the pricing of consumer goods and services (Part S); to amend the general business law, in relation to telemarketing and to provide for caller identification transparency, call authentication, and call blocking services; and to repeal certain provisions of such law relating thereto (Part T); to amend the state law, in relation to making changes to the arms of the state (Part U); to amend the executive law, the real property law and the general business law, in relation to qualifications for appointment and employment (Part V); to amend the real property law, in relation to home inspection professional licensing (Part W); to amend the business corporation law, the executive law, the limited liability company law, the not-for-profit corporation law, and the partnership law, in relation to filing of certificates with the department of state; and repealing provisions of the business corporation law, the limited liability company law and the tax law related thereto (Part X); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues (Part Y); to amend the public service law, in relation to strengthening the oversight and enforcement mech-

anisms of the public service commission (Part Z); to amend the public service law, the state finance law, the public authorities law and the general business law, in relation to prohibiting internet service providers from preventing access to certain internet content or applications or requiring users to pay to access certain internet content or applications (Part AA); to amend the general municipal law, in relation to authorizing municipal corporations to charge for use and occupancy of fiber-optic lines on municipally owned rights of way and establish a uniform process for the siting of small cell wireless facilities; and to amend the highway law, in relation to statewide master license agreements (Part BB); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part CC); to amend the infrastructure investment act, in relation to requiring certain contracts to comply with service-disabled veteran-owned business enterprises, negotiating prices in certain lump-sum contracts, referencing certain sections of law and providing for a date of repeal (Part DD); to amend the New York state urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part EE); 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 extending the general loan powers of the New York state urban development corporation (Part FF); to amend the economic development law, in relation to economic transformation program eligibility (Part GG); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part HH); to amend the labor law, in relation to the definitions of employer and immediate family member (Part II); to amend the general municipal law, in relation to discretionary spending and procurement procedures for school districts in relation to New York state products (Part JJ); to amend the public authorities law, in relation to the water pollution control revolving fund and the drinking water revolving fund (Part KK); to amend the banking law and the civil practice law and rules, in relation to licensing consumer debt collectors (Part LL); to amend the financial services law, in relation to licensing student debt relief consultants; and to amend the banking law, in relation to requiring fingerprinting for applications for a student loan servicer license (Part MM); to amend the financial services law and the insurance law, in relation to protecting New York consumers from unfair and abusive practices (Part NN); to amend the banking law, in relation to fighting elder financial fraud (Part OO); to amend the environmental conservation law, in relation to expanded polystyrene foam container and polystyrene loose fill packaging ban (Part PP); authorizing the creation of state debt in the amount of three billion dollars, in relation to creating the environmental bond act of 2020 "restore mother nature" for the purposes of environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change by restoring habitats and reducing

flood risk; improving water quality; protecting open space and investing in recreational infrastructure; expanding the use of renewable energy to mitigate climate change; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election to be held in November, 2020 (Part QQ); to amend the environmental conservation law and the state finance law, in relation to the implementation of the environmental bond act of 2020 "restore mother nature" (Part RR); to amend the environmental conservation law, in relation to a product stewardship program; and to amend the state finance law, in relation to establishing the stewardship organization fund (Part SS); to amend the environmental conservation law, in relation to freshwater wetlands; and to repeal certain provisions of such law relating thereto (Part TT); to authorize the county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart A); to authorize the village of East Rockaway, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart B); and to authorize the village of Rockville Centre, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart C) (Part UU); to amend the environmental conservation law, in relation to financial security for the plugging and site reclamation of regulated wells (Part VV); to amend the environmental conservation law, in relation to banning fracking (Part WW); to amend the vehicle and traffic law, in relation to bicycles with electric assist (Part XX); 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 effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part YY); to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to extending the effectiveness thereof (Part ZZ); to amend the vehicle and traffic law, in relation to the regulation of the use of electric scooters (Part AAA); to amend the public authorities law, in relation to the centers for advanced technology program; and to repeal section 410 of the economic development law relating to the centers for excellence program (Part BBB); to amend the insurance law, the public authorities law and the tax law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company (Part CCC); to amend the Hudson river park act, in relation to Pier 76 (Part DDD); to amend the New York Buy American Act, in relation to the report to be provided and to making such provisions permanent (Part EEE); to amend the labor law, in relation to prevailing wage requirements (Part FFF); and to amend the labor law, in relation to classification of digital marketplace workers; and to establish the New York digital marketplace worker classification task force (Part GGG)

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 2020-2021

1 state fiscal year. Each component is wholly contained within a Part
2 identified as Parts A through GGG. The effective date for each partic-
3 ular provision contained within such Part is set forth in the last
4 section of such Part. Any provision in any section contained within a
5 Part, including the effective date of the Part, which makes a reference
6 to a section "of this act", when used in connection with that particular
7 component, shall be deemed to mean and refer to the corresponding
8 section of the Part in which it is found. Section three of this act sets
9 forth the general effective date of this act.

10

PART A

11 Section 1. Paragraph (e) of subdivision 4 of section 10-c of the high-
12 way law, as amended by section 2 of subpart B of part C of chapter 97 of
13 the laws of 2011, is amended to read as follows:

14 (e) Funds allocated for local street or highway projects under this
15 subdivision shall be used to undertake work on a project either with the
16 municipality's own forces or by contract, provided however, that whenever
17 the estimate for the construction contract work exceeds one hundred
18 thousand dollars but does not exceed [~~two~~] seven hundred fifty thousand
19 dollars such work must be performed either with the municipality's own
20 forces or by contract let by competitive bid in accordance with the
21 provisions of section one hundred three of the general municipal law and
22 provided further, however, that whenever the estimate for the
23 construction contract work exceeds [~~two~~] seven hundred fifty thousand
24 dollars such work must be performed by contract let by competitive bid
25 in accordance with the provisions of section one hundred three of the
26 general municipal law.

27 § 2. Subdivision 6 of section 234 of the transportation law, as
28 amended by chapter 369 of the laws of 1979, is amended to read as
29 follows:

30 6. for local street or highway projects, to undertake the work of the
31 project either with its own forces or by contract, however, whenever the
32 estimate for the construction contract work exceeds seven hundred fifty
33 thousand dollars such work must be performed by contract let by the
34 competitive bid process.

35 § 3. This act shall take effect immediately.

36

PART B

37 Section 1. Subdivisions (g) and (h) of section 1800 of the vehicle and
38 traffic law, as added by chapter 221 of the laws of 2008, are amended to
39 read as follows:

40 (g) Notwithstanding the provisions of subdivisions (b) and (c) of this
41 section, a person convicted of a traffic infraction for a violation of
42 any ordinance, order, rule, regulation or local law adopted pursuant to
43 one or more of the following provisions of this chapter: paragraphs two
44 and nine of subdivision (a) of section sixteen hundred twenty-one;
45 subdivision three of section sixteen hundred thirty; or subdivision five
46 of section seventy-one of the transportation law, prohibiting the opera-
47 tion on a highway or parkway of a motor vehicle registered as a commer-
48 cial vehicle and having a gross vehicle weight rating of less than
49 [~~twenty-six~~] ten thousand pounds shall, for a first conviction thereof,
50 be punished by a fine of not more than two hundred fifty dollars or by
51 imprisonment of not more than fifteen days or by both such fine and
52 imprisonment; for a conviction of a second violation, both of which were

committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment. Provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter.

(h) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of at least ten thousand pounds but no more than twenty-six thousand pounds shall, for a first conviction thereof, be punished by a fine of not more than one thousand dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than fifteen hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than two thousand five hundred dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment; provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter.

(i) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a commercial motor vehicle as defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter, for a first conviction thereof, be punished by a fine of not more than [~~three hundred fifty~~] five thousand dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven thousand five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than [~~one~~] ten thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment. In addition to the penalties provided for in this subdivi-

1 sion, the registration of the vehicle may be suspended for a period not
2 to exceed one year whether at the time of the violation the vehicle was
3 in charge of the owner or his agent. The provisions of section five
4 hundred ten of this chapter shall apply to such suspension except as
5 otherwise provided herein.

6 § 2. Subdivision 18 of section 385 of the vehicle and traffic law, as
7 amended by chapter 549 of the laws of 1985, is amended, and a new subdivi-
8 sion 18-a is added, to read as follows:

9 18. Except as provided in subdivision eighteen-a or nineteen of this
10 section, the violation of the provisions of this section including a
11 violation related to the operation, within a city not wholly included
12 within one county, of a vehicle which exceeds the limitations provided
13 for in the rules and regulations of the city department of transporta-
14 tion of such city, shall be punishable by a fine of not less than two
15 hundred nor more than five hundred dollars, or by imprisonment for not
16 more than thirty days, or by both such fine and imprisonment, for the
17 first offense; by a fine of not less than five hundred nor more than one
18 thousand dollars, or by imprisonment for not more than sixty days, or by
19 both such fine and imprisonment, for the second or subsequent offense;
20 provided that a sentence or execution thereof for any violation under
21 this subdivision may not be suspended. For any violation of the
22 provisions of this section, including a violation related to the opera-
23 tion, within a city not wholly included within one county, of a vehicle
24 which exceeds the limitations provided for in the rules and regulations
25 of the city department of transportation of such city, the registration
26 of the vehicle may be suspended for a period not to exceed one year
27 whether at the time of the violation the vehicle was in charge of the
28 owner or his agent. The provisions of section five hundred ten of this
29 chapter shall apply to such suspension except as otherwise provided
30 herein.

31 18-a. A violation of the provisions of subdivision two or fourteen of
32 this section, where the violation relates to the height of the vehicle,
33 including a violation related to the operation, within a city not wholly
34 included within one county, of a vehicle which exceeds the limitations
35 provided for in the rules and regulations of the city department of
36 transportation of such city, shall be punishable by a fine of not more
37 than five thousand dollars, or by imprisonment for not more than thirty
38 days, or by both such fine and imprisonment, for the first offense; by a
39 fine of not more than seven thousand five hundred dollars, or by impri-
40 sonment for not more than sixty days, or by both such fine and imprison-
41 ment, for the second or subsequent offense; provided that a sentence or
42 execution thereof for any violation under this subdivision may not be
43 suspended. For any violation of the provisions of this section, includ-
44 ing a violation related to the operation, within a city not wholly
45 included within one county, of a vehicle which exceeds the limitations
46 provided for in the rules and regulations of the city department of
47 transportation of such city, the registration of the vehicle may be
48 suspended for a period not to exceed one year whether at the time of the
49 violation the vehicle was in charge of the owner or his agent. The
50 provisions of section five hundred ten of this chapter shall apply to
51 such suspension except as otherwise provided herein.

52 § 3. This act shall take effect immediately.

1 Section 1. The vehicle and traffic law is amended by adding a new
2 section 141-c to read as follows:

3 § 141-c. Safety service patrol vehicle. A vehicle designated by the
4 commissioner of transportation to provide highway incident management
5 and motorist assistance by, among other things, clearing highways of
6 disabled and damaged vehicles; permanently or temporarily repairing
7 disabled or damaged vehicles; clearing small debris resulting from minor
8 accidents or vehicle repair; and assisting emergency responders with
9 traffic control at highway incidents.

10 § 2. Subparagraphs a and c of paragraph 4 of subdivision 41 of section
11 375 of the vehicle and traffic law, as amended by chapter 465 of the
12 laws of 2010, are amended to read as follows:

13 a. One blue light may be affixed to any motor vehicle owned by a
14 volunteer member of a fire department or on a motor vehicle owned by a
15 member of such person's family residing in the same household or by a
16 business enterprise in which such person has a proprietary interest or
17 by which he or she is employed, provided such volunteer firefighter has
18 been authorized in writing to so affix a blue light by the chief of the
19 fire department or company of which he or she is a member, which author-
20 ization shall be subject to revocation at any time by the chief who
21 issued the same or his or her successor in office. Such blue light may
22 be displayed exclusively by such volunteer firefighter on such a vehicle
23 only when engaged in an emergency operation. The use of blue lights on
24 vehicles shall be restricted for use only by a volunteer firefighter
25 except as otherwise provided for in [~~subparagraph~~] subparagraphs b and
26 b-1 of this paragraph.

27 c. The commissioner is authorized to promulgate rules and regulations
28 relating to the use, placement, power and display of blue lights on a
29 police vehicle [~~and~~], fire vehicle and safety patrol vehicle.

30 § 3. Paragraph 4 of subdivision 41 of section 375 of the vehicle and
31 traffic law is amended by adding a new subparagraph b-1 to read as
32 follows:

33 b-1. In addition to the amber light authorized to be displayed pursu-
34 ant to paragraph three of this subdivision, one or more blue lights or
35 combination blue and amber lights may be affixed to a safety service
36 patrol vehicle provided that such blue light or lights shall be
37 displayed for rear projection only. Such blue light or lights may be
38 displayed on a safety service patrol vehicle when such vehicle is also
39 displaying amber light or lights pursuant to paragraph three of this
40 subdivision. Nothing contained in this subparagraph shall be deemed to
41 authorize the use of blue lights on a safety service patrol vehicles
42 unless such safety service patrol vehicles also display one or more
43 amber lights as otherwise authorized in this subdivision.

44 § 4. Subdivision (b) of section 1144-a of the vehicle and traffic law,
45 as amended by chapter 458 of the laws of 2011, is amended to to read as
46 follows:

47 (b) Every operator of a motor vehicle shall exercise due care to avoid
48 colliding with a hazard vehicle which is parked, stopped or standing on
49 the shoulder or on any portion of such highway and such hazard vehicle
50 is displaying one or more amber lights pursuant to the provisions of
51 paragraph three of subdivision forty-one of section three hundred seven-
52 ty-five of this chapter or, if such hazard vehicle is a safety service
53 patrol vehicle, such vehicle is displaying one or more amber lights or
54 one or more blue or combination blue and amber lights pursuant to the
55 provisions of paragraph three or subparagraph b-1 of paragraph four, as
56 applicable, of subdivision forty-one of section three hundred seventy-

1 five of this chapter. For operators of motor vehicles on parkways or
2 controlled access highways, such due care shall include, but not be
3 limited to, moving from a lane which contains or is immediately adjacent
4 to the shoulder where (i) such hazard vehicle displaying one or more
5 amber lights pursuant to the provisions of paragraph three of subdivi-
6 sion forty-one of section three hundred seventy-five of this chapter or
7 (ii) such safety service patrol vehicle displaying one or more amber
8 lights or one or more blue or combination and amber lights pursuant to
9 the provisions of paragraph three or subparagraph b-1 of paragraph four,
10 as applicable, of subdivision forty-one of section three hundred seven-
11 ty-five of this chapter, is parked, stopped or standing to another lane,
12 provided that such movement otherwise complies with the requirements of
13 this chapter including, but not limited to, the provisions of sections
14 eleven hundred ten and eleven hundred twenty-eight of this title.

15 § 5. This act shall take effect on the one hundred eightieth day after
16 it shall have become a law.

17 PART D

18 Section 1. This act enacts into law components of legislation which
19 are necessary to implement legislation relating to enacting the slow
20 down and look out for highway workers and pedestrians act of 2020. Each
21 component is wholly contained within a Subpart identified as Subparts A
22 through C. The effective date for each particular provision contained
23 within such Subpart is set forth in the last section of such Subpart.
24 Any provision in any section contained within a Subpart, including the
25 effective date of the Subpart, which makes a reference to a section "of
26 this act", when used in connection with that particular component, shall
27 be deemed to mean and refer to the corresponding section of the Subpart
28 in which it is found. Section three of this act sets forth the general
29 effective date of this act.

30 SUBPART A

31 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
32 subdivision 3 as amended by chapter 267 of the laws of 2016, and subdivi-
33 sion 11 as separately amended by chapters 268 and 281 of the laws of
34 2016, are amended to read as follows:

35 3. With intent to prevent a peace officer, a police officer, prosecu-
36 tor as defined in subdivision thirty-one of section 1.20 of the criminal
37 procedure law, registered nurse, licensed practical nurse, public health
38 sanitarian, New York city public health sanitarian, sanitation enforce-
39 ment agent, New York city sanitation worker, a firefighter, including a
40 firefighter acting as a paramedic or emergency medical technician admin-
41 istering first aid in the course of performance of duty as such fire-
42 fighter, an emergency medical service paramedic or emergency medical
43 service technician, or medical or related personnel in a hospital emer-
44 gency department, a city marshal, a school crossing guard appointed
45 pursuant to section two hundred eight-a of the general municipal law, a
46 traffic enforcement officer, traffic enforcement agent, a highway worker
47 as defined in section one hundred eighteen-a of the vehicle and traffic
48 law, a motor vehicle inspector and motor carrier investigator as defined
49 in section one hundred eighteen-b of the vehicle and traffic law, or
50 employee of any entity governed by the public service law in the course
51 of performing an essential service, from performing a lawful duty, by
52 means including releasing or failing to control an animal under circum-

stances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, highway worker as defined by section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, or employee of an entity governed by the public service law, he or she causes physical injury to such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, highway worker as defined by section eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, or employee of an entity governed by the public service law; or

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner or terminal cleaner employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, a highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, a motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner or terminal cleaner, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, including the cleaning of a train or bus station or terminal, or such city marshal, school crossing guard, traffic enforcement officer,

1 traffic enforcement agent, highway worker as defined by section one
2 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
3 tor and motor carrier investigator as defined in section one hundred
4 eighteen-b of the vehicle and traffic law, prosecutor as defined in
5 subdivision thirty-one of section 1.20 of the criminal procedure law,
6 registered nurse, licensed practical nurse, public health sanitarian,
7 New York city public health sanitarian, sanitation enforcement agent,
8 New York city sanitation worker, emergency medical service paramedic, or
9 emergency medical service technician is performing an assigned duty; or

10 § 2. The penal law is amended by adding a new section 120.19 to read
11 as follows:

12 § 120.19 Menacing a highway worker.

13 A person is guilty of menacing a highway worker when he or she inten-
14 tionally places or attempts to place a highway worker in reasonable fear
15 of death, imminent serious physical injury or physical injury. For
16 purposes of this section, a highway worker shall have the same meaning
17 as defined by section one hundred eighteen-a of the vehicle and traffic
18 law.

19 Menacing a highway worker is a class E felony.

20 § 3. The vehicle and traffic law is amended by adding two new sections
21 118-a and 118-b to read as follows:

22 § 118-a. Highway worker. Any person employed by or on behalf of the
23 state, a county, city, town or village, a public authority, a local
24 authority, or a public utility company, or the agent or contractor of
25 any such entity, who has been assigned to perform work on a highway,
26 including maintenance, repair, flagging, utility work, construction,
27 reconstruction or operation of equipment on public highway infrastruc-
28 ture and associated rights-of-way in highway work areas, and shall also
29 include any flagperson as defined in section one hundred fifteen-b of
30 this article.

31 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
32 person employed by the New York state department of transportation who
33 has been assigned to perform inspections of any motor vehicles or inves-
34 tigation of any carriers regulated by the commissioner of the department
35 of transportation.

36 § 4. Paragraph b of subdivision 2 of section 510 of the vehicle and
37 traffic law is amended by adding a new subparagraph (xviii) to read as
38 follows:

39 (xviii) for a period of six months where the holder is convicted of
40 the crime of assault in the first, second, or third degree, menacing a
41 highway worker, or menacing in the first, second, or third degree, as
42 defined by article one hundred twenty of the penal law, where such
43 offense was committed against a highway worker.

44 § 5. The vehicle and traffic law is amended by adding a new section
45 1221-a to read as follows:

46 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
47 cle shall enter or intrude into an active work zone except upon direc-
48 tion from a flagperson, police officer, or other visibly designated
49 person in charge of traffic control or upon direction from a traffic
50 control device regulating entry therein. For purposes of this section,
51 the term "active work zone" shall mean the physical area of a highway,
52 street, or private road on which construction, maintenance, or utility
53 work is being conducted, which is marked by signs, channeling devices,
54 barriers, pavement markings, or work vehicles, and where workers are
55 physically present.

1 2. A violation of subdivision one of this section shall constitute a
2 class B misdemeanor punishable by a fine of not less than two hundred
3 fifty dollars, nor more than five hundred dollars or by a period of
4 imprisonment not to exceed three months, or by both such fine and impri-
5 sonment.

6 § 6. The vehicle and traffic law is amended by adding a new section
7 1221-b to read as follows:

8 § 1221-b. Work zone safety and outreach. The governor's traffic safety
9 committee, upon consultation with the commissioner of transportation,
10 the superintendent of state police, the commissioner, the chairman of
11 the New York state thruway authority, local law enforcement agencies,
12 and representatives for contractors and laborers, shall design and
13 implement a public education and outreach program to increase motorist
14 awareness of the importance of highway work zone safety, to reduce the
15 number of work zone incidents, including speeding, unauthorized intru-
16 sions into work zones, and any conduct resulting in threats or injuries
17 to highway workers, and to increase and promote work zone safety.

18 § 7. This act shall take effect on the one hundred eightieth day after
19 it shall have become a law.

20 SUBPART B

21 Section 1. Subdivision 1 of section 600 of the vehicle and traffic law
22 is amended by adding a new paragraph c to read as follows:

23 c. Any person operating a motor vehicle involved in an accident not
24 involving personal injury or death who moves such vehicle to a location
25 off the roadway but as near as possible to the place where the damage
26 occurred, so as not to obstruct the regular flow of traffic, shall not
27 be construed to be in violation of this subdivision because of such
28 movement.

29 § 2. Subdivision 2 of section 15 of the highway law, as amended by
30 chapter 1110 of the laws of 1971, is amended to read as follows:

31 2. The commissioner [~~of transportation~~], a police officer, or any
32 person acting at the discretion of the commissioner or a police officer
33 shall have the power to cause the immediate removal, from the right of
34 way of any state highway, of any vehicle, cargo, or debris which
35 obstructs or interferes with the use of such a highway for public trav-
36 el; or which obstructs or interferes with the construction, recon-
37 struction or maintenance of such a highway; or which obstructs or inter-
38 feres with the clearing or removal of snow or ice from such a highway;
39 or which obstructs or interferes with any operation of the department of
40 transportation during a public emergency. The commissioner, a police
41 officer, or any person acting at the discretion of the commissioner or a
42 police officer, shall not be liable for any damage to such vehicle,
43 cargo, or debris, unless such removal was carried out in a reckless or
44 grossly negligent manner. For the purposes of this subdivision, the term
45 "police officer" shall have the same meaning as defined by subdivision
46 thirty-four of section 1.20 of the criminal procedure law.

47 § 3. This act shall take effect immediately.

48 SUBPART C

49 Section 1. Paragraph 1 of subdivision (b) of section 1146 of the vehi-
50 cle and traffic law, as amended by chapter 333 of the laws of 2010, is
51 amended to read as follows:

1 1. A driver of a motor vehicle who causes physical injury as defined
2 in article ten of the penal law to a pedestrian or bicyclist while fail-
3 ing to exercise due care in violation of subdivision (a) of this
4 section, shall be guilty of a traffic infraction punishable by a fine of
5 not more than [~~five hundred~~] one thousand dollars or by imprisonment for
6 not more than fifteen days or by both such fine and imprisonment.

7 § 2. Paragraph 1 of subdivision (c) of section 1146 of the vehicle and
8 traffic law, as amended by chapter 333 of the laws of 2010, is amended
9 to read as follows:

10 1. A driver of a motor vehicle who causes serious physical injury as
11 defined in article ten of the penal law to a pedestrian or bicyclist
12 while failing to exercise due care in violation of subdivision (a) of
13 this section, shall be guilty of a traffic infraction punishable by a
14 fine of not more than [~~seven hundred fifty~~] one thousand five hundred
15 dollars or by imprisonment for not more than fifteen days or by required
16 participation in a motor vehicle accident prevention course pursuant to
17 paragraph (e-1) of subdivision two of section 65.10 of the penal law or
18 by any combination of such fine, imprisonment or course, and by suspen-
19 sion of a license or registration pursuant to subparagraph (xiv) or (xv)
20 of paragraph b of subdivision two of section five hundred ten of this
21 chapter.

22 § 3. This act shall take effect on the one hundred eightieth day after
23 it shall have become a law.

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

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

36 PART E

37 Section 1. Subdivision 16 of section 385 of the vehicle and traffic
38 law is amended to add fourteen new paragraphs (v), (w), (x), (y), (z),
39 (aa), (bb), (cc), (dd), (ee), (ff), (gg), (hh) and (ii) to read as
40 follows:

41 (v) Within a distance of approximately one mile from the New York
42 state thruway interchange 24 traveling along interstate route 90 to
43 interchange 2 Washington avenue, and to Washington avenue traveling
44 westbound to Fuller road in a northerly direction to interstate route 90
45 traveling to interchange 24 of the New York state thruway, where the
46 commissioner of transportation determines that the vehicle or combina-
47 tion of vehicles could operate safely along the designated route and
48 that no applicable federal law, regulation or other requirement prohib-
49 its the operation of such vehicle or combination of vehicles on such
50 route.

51 (w) Within a distance of approximately .25 miles from the New York
52 state thruway interchange 25A, traveling in a westbound direction along
53 interstate route 88 to exit 25 to route 7, and to a left on Becker road
54 traveling in a southbound direction on Becker road for approximately .2

1 miles to the New York state thruway interchange 25A tandem lot access
2 road, where the commissioner of transportation determines that the vehi-
3 cle or combination of vehicles could operate safely along the designated
4 route and that no applicable federal law, regulation or other require-
5 ment prohibits the operation of such vehicle or combination of vehicles
6 on such route.

7 (x) Within a distance of approximately 2.2 miles from the New York
8 state thruway interchange 34A traveling in a southbound direction along
9 interstate route 481 to interstate 481 exit 5E Kirkville road east along
10 state route 53 Kirkville road in an eastbound direction to interstate
11 route 481 traveling northbound to exit 6 to interchange 34A of the New
12 York state thruway, where the commissioner of transportation determines
13 that the vehicle or combination of vehicles could operate safely along
14 the designated route and that no applicable federal law, regulation or
15 other requirement prohibits the operation of such vehicle or combination
16 of vehicles on such route.

17 (y) Within a distance of approximately .8 miles from the New York
18 state thruway interchange 35, traveling approximately 200 feet around
19 Carrier circle to traveling northbound on Thompson road for approximate-
20 ly 1000 feet, or traveling southbound on Thompson road approximately 100
21 feet, to traveling westbound on Tarbell road for approximately .5 miles
22 to reenter at the Dewitt service area of the New York state thruway
23 where the commissioner of transportation determines that the vehicle or
24 combination of vehicles could operate safely along the designated route
25 and that no applicable federal law, regulation or other requirement
26 prohibits the operation of such vehicle or combination of vehicles on
27 such route.

28 (z) Within a distance of approximately one mile from the New York
29 state thruway interchange 36 traveling in a southbound direction on
30 interstate 81 to interstate 81 exit 25 7th North street, and traveling
31 eastbound on 7th North street to interstate 81 traveling in a northbound
32 direction to interchange 36 of the New York state thruway, where the
33 commissioner of transportation determines that the vehicle or combina-
34 tion of vehicles could operate safely along the designated route and
35 that no applicable federal law, regulation or other requirement prohib-
36 its the operation of such vehicle or combination of vehicles on such
37 route.

38 (aa) Within a distance of approximately .6 miles from the New York
39 state thruway interchange 39 traveling eastbound on interstate 690 to
40 interstate 690 exit 2 Jones road in a northbound direction to state
41 route 690 north to interchange 39 of the New York state thruway, where
42 the commissioner of transportation determines that the vehicle or combi-
43 nation of vehicles could operate safely along the designated route and
44 that no applicable federal law, regulation or other requirement prohib-
45 its the operation of such vehicle or combination of vehicles on such
46 route.

47 (bb) Within a distance of approximately .5 miles from the New York
48 state thruway interchange 45, traveling on interstate 490 to interstate
49 490 exit 29, in a southwesterly direction along New York state route 96
50 to the point where New York state route 96 intersects with the entrance
51 ramp to the New York state thruway interchange 45, and for approximately
52 .2 miles along this entrance ramp to the New York state thruway inter-
53 change 45, where the commissioner of transportation determines that the
54 vehicle or combination of vehicles could operate safely along the desig-
55 nated route and that no applicable federal law, regulation or other

1 requirement prohibits the operation of such vehicle or combination of
2 vehicles on such route.

3 (cc) Within a distance of approximately .6 miles from the New York
4 state thruway interchange 46, traveling in a northeasterly direction on
5 the ramp from the New York state thruway interchange 46 to interstate
6 390 north exit to New York state route 253, Lehigh Station road, for a
7 distance of approximately .5 miles along the ramp from interstate 390
8 north exit to New York state route 253, Lehigh Station road, for a
9 distance of approximately .6 miles in a westerly direction along New
10 York state route 253, Lehigh Station road, to the intersection of New
11 York state route 253 with New York state route 15, then for a distance
12 of approximately .6 miles in a southerly direction along New York state
13 route 15, to the New York state thruway interchange 46 maintenance
14 facility entrance, where the commissioner of transportation determines
15 that the vehicle or combination of vehicles could operate safely along
16 the designated route and that no applicable federal law, regulation or
17 other requirement prohibits the operation of such vehicle or combination
18 of vehicles on such route.

19 (dd) Within a distance of approximately .3 miles from the New York
20 state thruway interchange 47, traveling on interstate 490 to interstate
21 490 exit 1, to a distance of approximately .2 miles along the ramp from
22 interstate 490 exit 1, for a distance of approximately .4 miles in a
23 southwesterly direction to the entrance ramp of the New York state thru-
24 way interchange 47, where the commissioner of transportation determines
25 that the vehicle or combination of vehicles could operate safely along
26 the designated route and that no applicable federal law, regulation or
27 other requirement prohibits the operation of such vehicle or combination
28 of vehicles on such route.

29 (ee) Within a distance of approximately .6 miles from the New York
30 state thruway interchange 19, traveling in a westbound direction along
31 route 28 to route 209, and traveling in a southbound direction on route
32 209 for approximately .1 miles to route 28, and traveling in an east-
33 bound direction on route 28 for approximately .8 miles to the New York
34 state thruway interchange 19 where the commissioner of transportation
35 determines that the vehicle or combination of vehicles could operate
36 safely along the designated route and that no applicable federal law,
37 regulation or other requirement prohibits the operation of such vehicle
38 or combination of vehicles on such route.

39 (ff) Within a distance of approximately .5 miles from the New York
40 state thruway interchange 31, traveling onto the ramp to Genesee street
41 south for approximately 2800 feet to Genesee street north for approxi-
42 mately 275 feet to interchange 31 of the New York state thruway where
43 the commissioner of transportation determines that the vehicle or combi-
44 nation of vehicles could operate safely along the designated route and
45 that no applicable federal law, regulation or other requirement prohib-
46 its the operation of such vehicle or combination of vehicles on such
47 route.

48 (gg) Within a distance of approximately .2 miles from the New York
49 state thruway interchange 33 traveling westbound on state route 365 for
50 approximately 900 feet to interchange 33 of the New York state thruway
51 where the commissioner of transportation determines that the vehicle or
52 combination of vehicles could operate safely along the designated route
53 and that no applicable federal law, regulation or other requirement
54 prohibits the operation of such vehicle or combination of vehicles on
55 such route.

(hh) Within a distance of approximately .15 miles from the New York state thruway interchange 42 traveling on state route 14 for approximately 750 feet for travel to and from the thruway tandem lot and interchange 42 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route .

(ii) Within a distance of approximately .1 miles from the New York state interchange 43 traveling on state route 21 for approximately 600 feet for travel to and from the thruway tandem lot and interchange 43 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.

§ 2. This act shall take effect immediately.

PART F

Section 1. Paragraph a of subdivision 6 of section 2897 of the public authorities law, as added by chapter 766 of the laws of 2005, is amended and a new paragraph f is added to read as follows:

a. All disposals or contracts for disposal of property of a public authority made or authorized by the contracting officer shall be made after publicly advertising for bids except as provided in ~~[paragraph]~~ paragraphs c and f of this subdivision.

f. Notwithstanding anything to the contrary in this section, disposals for use of the thruway authority's fiber optic system, or any part thereof, may be made through agreements that shall not require public auction, provided that the thruway authority has determined the disposal of such property complies with all applicable provisions of this chapter and such shall not require the explanatory statements required by this section.

§ 2. This act shall take effect immediately.

PART G

Section 1. Section 351 of the public authorities law is amended by adding a new subdivision 11 to read as follows:

11. The term "Cross-Hudson bridge system" shall mean collectively: (a) the Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to chapter nine hundred of the laws of nineteen hundred twenty-three, as amended; (b) the Rip Van Winkle bridge, constructed across the Hudson river north of the village of Catskill and south of the city of Hudson; (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson River Bridge Company, pursuant to chapter three hundred fifty-eight of the laws of nineteen hundred twenty-two; (d) the Hamilton Fish Newburgh-Beacon bridge, including both spans of the bridge constructed across the Hudson river between a location in the vicinity of the city of Newburgh and a location in the vicinity of the city of Beacon; (e) the Kingston-Rhinecliff bridge, constructed across the Hudson river within five miles of the city of Kingston; and (f) the walkway over the Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was constructed across the Hudson river north of the Franklin Delano Roosevelt Mid-Hudson bridge.

§ 2. Section 356 of the public authorities law is amended by adding a new subdivision 10 to read as follows:

10. The Cross-Hudson bridge system. Including collectively: (a) the Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to chapter nine hundred of the laws of nineteen hundred twenty-three, as amended; (b) the Rip Van Winkle bridge, constructed across the Hudson river north of the village of Catskill and south of the city of Hudson; (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson River Bridge Company, pursuant to chapter three hundred fifty-eight of the laws of nineteen hundred twenty-two; (d) the Hamilton Fish Newburgh-Beacon bridge, including both spans of the bridge constructed across the Hudson river between a location in the vicinity of the city of Newburgh and a location in the vicinity of the city of Beacon; (e) the Kingston-Rhinecliff bridge, constructed across the Hudson river within five miles of the city of Kingston; and (f) the walkway over the Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was constructed across the Hudson river north of the Franklin Delano Roosevelt Mid-Hudson bridge.

§ 3. Section 356-a of the public authorities law is amended by adding a new subdivision 6 to read as follows:

6. All that portion of touring route one hundred ninety-nine connecting Ulster and Dutchess counties which is identified and known as the Kingston-Rhinecliff bridge shall be designated and known as the "George Clinton Kingston-Rhinecliff bridge".

§ 4. Section 349-a of the highway law is amended by adding a new subdivision 10 to read as follows:

10. The Cross-Hudson bridge system. Including collectively: (a) the Franklin Delano Roosevelt Mid-Hudson bridge, constructed pursuant to chapter nine hundred of the laws of nineteen hundred twenty-three, as amended; (b) the Rip Van Winkle bridge, constructed across the Hudson river north of the village of Catskill and south of the city of Hudson; (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson River Bridge Company, pursuant to chapter three hundred fifty-eight of the laws of nineteen hundred twenty-two; (d) the Hamilton Fish Newburgh-Beacon bridge, including both spans of the bridge constructed across the Hudson river between a location in the vicinity of the city of Newburgh and a location in the vicinity of the city of Beacon; (e) the Kingston-Rhinecliff bridge; constructed across the Hudson river within five miles of the city of Kingston; and (f) the walkway over the Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was constructed across the Hudson river north of the Franklin Delano Roosevelt Mid-Hudson bridge.

§ 5. Section 373 of the public authorities law is amended by adding a new subdivision 3 to read as follows:

3. Upon abolishment of the New York state bridge authority, the state of New York does pledge to and agree with the holders of any bonds or notes of the authority that the state will not authorize the construction or maintenance of any additional highway crossings for vehicular traffic over, under or across the waters of the Hudson river in addition to the bridges and crossings constituting the Cross-Hudson bridge system authorized by this title which will be competitive with the bridges and crossings constituting the Cross-Hudson bridge system, nor will it limit or alter the rights hereby vested in the authority to establish and collect such charges and tolls as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreement made with

1 the holders of the bonds or notes, or in any way impair the rights and
2 remedies of bondholders or noteholders, until the bonds and notes,
3 together with interest, and all costs and expenses in connection with
4 any actions or proceedings by or on behalf of the bondholders or note-
5 holders, are fully met and discharged. For the purposes of this subdivi-
6 sion, any such bridge or crossing shall be considered as competitive
7 only if it shall form a connection for vehicular traffic over, under or
8 across the Hudson river south of a line drawn across the Hudson river
9 fifteen miles north of the Rip Van Winkle bridge, and north of the Bear
10 Mountain bridge.

11 § 6. The public authorities law is amended by adding a new section 389
12 to read as follows:

13 § 389. Additional powers of the authority to undertake and finance
14 certain projects in connection with the Cross-Hudson bridge system and
15 the New York state bridge authority. The authority is hereby authorized
16 as an additional corporate purpose thereof, to assume jurisdiction for
17 its corporate purposes of the Cross-Hudson bridge system, with all
18 rights and powers with respect to such system as established in this
19 title with respect to any thruway section or connection, including, but
20 not limited to, the power to operate and maintain said system, to fix
21 and collect such fees, rentals and charges for the use thereof, to issue
22 its bonds, notes and other obligations in conformity with applicable
23 provisions of the uniform commercial code for purposes of the acquisi-
24 tion, design, construction, reconstruction, repair, rehabilitation and
25 improvement of the Cross-Hudson bridge system, to provide funds on
26 behalf of the state within the meaning of the provisions of subdivision
27 four of former section five hundred thirty-two of this chapter to
28 defease, redeem or refund the bonds, notes and other obligations of the
29 New York state bridge authority and to discharge and pay any other obli-
30 gations whatsoever of the New York state bridge authority.

31 § 7. The public authorities law is amended by adding a new section
32 355-a to read as follows:

33 § 355-a. New York state bridge authority. 1. The New York state bridge
34 authority created by former section five hundred twenty-seven of this
35 chapter shall be abolished upon the date upon which all covenants,
36 agreements and obligations to the holders of bonds, notes or other obli-
37 gations issued or incurred under any bond resolution of the New York
38 state bridge authority have been paid in full or otherwise fully met and
39 discharged.

40 2. Upon abolishment of the New York state bridge authority, all
41 rights, functions, powers, duties, obligations, covenants, pledges,
42 undertakings, properties, debts, agreements, assets and liabilities of
43 the New York state bridge authority shall be transferred and assigned
44 to, assumed by and devolved upon the New York state thruway authority.

45 3. Upon abolishment of the New York state bridge authority, all rules,
46 regulations, acts, orders, determinations, and decisions of such author-
47 ity in force at the time of such transfer, assignment, assumption or
48 devolution, shall continue in force and effect as rules, regulations,
49 acts, orders, determinations and decisions of the New York state thruway
50 authority until duly modified or abrogated by the New York state thruway
51 authority.

52 4. Upon abolishment of the New York state bridge authority, the Cross-
53 Hudson bridge system, as defined in section three hundred fifty-one of
54 this title shall be added to, and included in, the thruway system as
55 defined in such section three hundred fifty-one.

1 5. Upon abolishment of the New York state bridge authority, all books,
2 papers, records and property of such authority shall be transferred as
3 assigned to the New York state thruway authority. All employees trans-
4 ferred from the New York state bridge authority to the New York state
5 thruway authority shall be transferred without further examination or
6 qualification and such employees shall retain their respective civil
7 service classifications, status and collective bargaining unit desig-
8 nations and be governed by applicable collective bargaining agreements.

9 6. Upon abolishment of the New York state bridge authority, any busi-
10 ness or other matters undertaken or commenced by the New York state
11 bridge authority and pending on the date of abolishment may be conducted
12 and completed by the New York state thruway authority in the same manner
13 and under the same terms and conditions and with the same effect as if
14 conducted by the New York state bridge authority.

15 7. Upon abolishment of the New York state bridge authority, whenever
16 the New York state bridge authority, or the chairman or the executive
17 director or other officer, member or employee thereof, is referred to or
18 designated in any law, contract or document, such reference or desig-
19 nation shall be deemed to refer to the New York state thruway authority.

20 8. No existing right or remedy of any character shall be lost,
21 impaired or affected by reason of this section.

22 9. No action pending at the time the New York state bridge authority
23 is abolished, brought by or against the New York state bridge authority,
24 or the chairman or executive director thereof, shall be affected by any
25 provision of this section, but the same may be prosecuted or defended in
26 the name of the New York state thruway authority or the executive direc-
27 tor or chairman thereof, and the proper party shall, upon application to
28 the court, be substituted as a party.

29 10. Upon abolishment of the New York state bridge authority act, the
30 rights and remedies of bondholders, other creditors or persons having
31 claims or contracts with the New York state bridge authority shall not
32 be limited, impaired or otherwise altered by the merger of the New York
33 state bridge authority facilities and operations into the New York state
34 thruway authority.

35 § 8. Title 2 of article 3 of the public authorities law is REPEALED.

36 § 9. Notwithstanding any provision of this act or any other provisions
37 of law, general, special or local, the New York state bridge authority
38 shall from time to time, after all contract provisions with respect to
39 any bonds, notes or other obligations issued or incurred under any bond
40 resolution of the New York state bridge authority have been provided for
41 and discharged, take any action necessary and proper to assist the New
42 York state thruway authority in effecting such discharge, including, but
43 not limited to directing the trustee under its agreement with New York
44 state bridge authority bondholders to apply available and necessary
45 funds to such discharge and otherwise take such actions consistent with
46 such agreement to effectuate such discharge, and transfer and pay over
47 to the New York state thruway authority all remaining funds; and may
48 accept and use any moneys transferred and paid over to it by the New
49 York state thruway authority to implement such discharge.

50 § 10. Subdivision 1 of section 352 of the public authorities law, as
51 amended by chapter 766 of the laws 2005, is amended to read as follows:

52 1. A board to be known as "New York state thruway authority" is hereby
53 created. Such board shall be a body corporate and politic constituting a
54 public corporation. It shall consist of [~~seven~~ eight members appointed
55 by the governor by and with the advice and consent of the senate. One
56 member shall be, at the time of appointment, a resident of one of the

1 following counties: Orange, Rockland, Westchester, Putnam, Dutchess,
2 Ulster, Greene or Columbia. The members first appointed shall serve for
3 terms ending three, six and nine years, respectively from January first
4 next succeeding their appointment. Provided, however, that two board
5 members first appointed on or after the effective date of the chapter of
6 the laws of two thousand five which amended this subdivision shall serve
7 an initial term of two years; provided further that two other board
8 members first appointed on or after the effective date of the chapter of
9 the laws of two thousand five which amended this subdivision shall serve
10 an initial term of three years. Their successors shall be appointed for
11 terms of nine years each. A member to be designated as chairman in his
12 or her appointment as a member shall be chairman of such board until his
13 or her term as member expires. The chairman and the other members shall
14 serve without salary or other compensation, but shall be entitled to
15 reimbursement for their actual and necessary expenses incurred in the
16 performance of their official duties.

17 § 11. Nothing contained in this act shall be deemed to limit or alter
18 in any way the rights and obligations of the New York state bridge
19 authority or after the abolishment of the New York state bridge authori-
20 ty, the New York state thruway authority, to establish and collect such
21 fees, rentals and other charges as may be necessary or required to
22 produce sufficient revenues to meet and to fulfill the terms and
23 provisions of the contracts made with the holders and registered owners
24 of the bonds, notes or other obligations or in any way impair the
25 constitutional rights of the holders and registered owners of the bonds,
26 notes or other obligations.

27 § 12. This act, being necessary for the prosperity of the state and
28 its inhabitants, shall be liberally construed to effect the purposes and
29 secure the beneficial intents hereof.

30 § 13. If any provision of any section of this act or the application
31 thereof to any person or circumstance shall be adjudged invalid by a
32 court of competent jurisdiction, such order or judgment shall be
33 confined in its operation to the controversy in which it was rendered,
34 and shall not affect or invalidate the remainder of any provision of any
35 section of this act or the application thereof to any other person or
36 circumstance and to this end the provisions of each section of this act
37 are hereby declared to be severable.

38 § 14. This act shall take effect immediately, provided, however, that
39 section nine of this act shall take effect when all covenants, agree-
40 ments and obligations to the holders of bonds, notes or other obli-
41 gations issued or incurred under any bond resolution of the New York
42 state bridge authority are fully discharged and satisfied; provided,
43 that the New York state thruway authority shall notify the legislative
44 bill drafting commission when all covenants, agreements and obligations
45 to the holders of bonds, notes or other obligations of the New York
46 state bridge authority are fully discharged and satisfied in order that
47 the commission may maintain an accurate and timely effective data base
48 of the official text of the laws of the state of New York in furtherance
49 of effectuating the provisions of section 44 of the legislative law and
50 section 70-b of the public officers law.

51 PART H

52 Section 1. Section 1220-b of the vehicle and traffic law is amended by
53 adding four new subdivisions 5, 6, 7 and 8 to read as follows:

1 5. As an alternative to the penalties provided for the violation of
2 the provisions of this section:

3 (a) Any person who operates, or attempts to operate, a motor vehicle
4 in violation of the provisions of this section shall be guilty of a
5 traffic infraction and, for the first violation, be required to pay a
6 mandatory civil penalty of three thousand dollars and, upon notice, the
7 commissioner shall suspend for a period of thirty days the driver's
8 license or privilege to operate a motor vehicle of any person that oper-
9 ated, or attempted to operate, a motor vehicle in violation of this
10 section; and for the second violation, be required to pay a mandatory
11 civil penalty of five thousand dollars and, upon notice, the commis-
12 sioner shall suspend for a period of ninety days such driver's license or
13 privilege to operate; and for a third or subsequent violation, be
14 required to pay a mandatory civil penalty of ten thousand dollars and,
15 upon notice, the commissioner shall suspend for a period of one hundred
16 eighty days such driver's license or privilege to operate. In addition
17 to the foregoing, where such person is the owner of the motor vehicle
18 operated in violation of the provisions of this section, for the first
19 violation the commissioner, upon notice, shall suspend for a period of
20 thirty days the registration of any motor vehicle so operated; and for
21 the second violation the commissioner, upon notice, shall suspend the
22 registration of any motor vehicle so operated for a period of ninety
23 days; and for a third or subsequent violation, the commissioner, upon
24 notice, shall suspend the registration of any motor vehicle so operated
25 for a period of one hundred eighty days.

26 (b) Any person who knowingly solicits or attempts to solicit another
27 person for the unlicensed provision of any business, trade or commercial
28 transaction in violation of this section involving the rendering to
29 another person of ground transportation services from an airport shall
30 be guilty of a traffic infraction and, for the first violation, be
31 required to pay a mandatory civil penalty of three thousand dollars; and
32 for the second violation, be required to pay a mandatory civil penalty
33 of five thousand dollars; and for a third or subsequent violation, be
34 required to pay a mandatory civil penalty of ten thousand dollars.

35 6. The commissioner shall have the authority to deny a registration or
36 renewal application for a motor vehicle where a current or previously
37 registered owner of such motor vehicle has been found in violation of
38 this section, section 19-506 of the administrative code of the city of
39 New York, or other provision establishing civil or criminal liability
40 for unlicensed ground transportation service, or unlicensed operation,
41 and may also deny a registration or renewal application for any other
42 motor vehicle registered in the name of such owner, where the commis-
43 sioner determines that the applicant's intent in applying for registra-
44 tion or renewal has likely been to evade the purposes of this section
45 and where the commissioner has reasonable grounds to believe that such
46 registration or renewal will have the effect of tending to defeat the
47 purposes of this section.

48 7. (a) A special proceeding may be commenced in supreme court or coun-
49 ty court by a petitioner, whom shall be either the attorney general, or
50 by the agency, authority, bi-state authority, county, or city having
51 jurisdiction over the airport where the alleged violation occurred,
52 alleging that a motor vehicle owner has committed a second or subsequent
53 traffic infraction in violation of this section. A petitioner establish-
54 ing by clear and convincing evidence that a motor vehicle owner has
55 committed a second or subsequent violation of this section shall be
56 entitled to judgment of forfeiture of all right, title or interest held

1 by the owner in any motor vehicle used in the commission of the second
2 or subsequent violation.

3 (b) Any judgment of forfeiture issued pursuant to this subdivision
4 shall include provisions for the disposal of the property found to have
5 been forfeited. Such provisions shall include, but are not limited to,
6 an order directing that the property, right, title, or interest shall be
7 sold in accordance with the provisions of article fifty-one of the civil
8 practice law and rules, unless good cause is shown. Net proceeds of the
9 sale shall be paid to the petitioner.

10 8. (a) A police officer shall be permitted to seize a motor vehicle
11 that may be subject to legal forfeiture pursuant to subdivision seven of
12 this section if the officer has probable cause to believe the owner of
13 the motor vehicle is operating, or attempting to operate, the motor
14 vehicle in violation of this section and the owner has previously been
15 convicted in any court or administrative tribunal of a violation of this
16 section. A police officer effectuating a seizure pursuant to this subdivi-
17 vision may do so within twenty-four hours of providing the owner of the
18 motor vehicle with a traffic summons for the second or subsequent
19 violation of this section and a notice of motor vehicle seizure contain-
20 ing the date, time, and place of the court hearing pursuant to this
21 subdivision, as well as a concise statement concerning the nature of the
22 legal forfeiture action. Within five business days of such seizure, a
23 supreme or county court, upon the filing of a petition for legal forfei-
24 ture, shall conduct a hearing pursuant to subdivision seven of this
25 section and shall promptly determine whether a motor vehicle seized
26 pursuant to this subdivision is subject to legal forfeiture and whether
27 it is necessary that the motor vehicle remain impounded in order to
28 ensure its availability to effectuate legal forfeiture.

29 (b) Upon a determination by a court that a motor vehicle is subject to
30 legal forfeiture, the court will issue an order that petitioner shall
31 retain the seized motor vehicle during the pendency of the legal forfei-
32 ture action and proceed in accordance with article four of the civil
33 practice law and rules to resolve any remaining issues prior to entering
34 judgment. If the seized motor vehicle is not subject to legal forfei-
35 ture, but a violation of this section is found, then the motor vehicle
36 shall be released to the owner upon the payment of all penalties and
37 suspension termination fees associated with such violation. If a charge
38 for violating this section is dismissed and the motor vehicle is not
39 otherwise subject to legal forfeiture, the motor vehicle shall be
40 released to the owner within twenty-four hours of such dismissal.

41 § 2. Paragraph b of subdivision 2 of section 510 of the vehicle and
42 traffic law is amended by adding two new subparagraphs (xviii) and (xix)
43 to read as follows:

44 (xviii) until such time as all penalties and all suspension termi-
45 nation fees are paid, or where a default judgment is reopened and all
46 suspension fees are paid, where the holder receives a default judgment
47 for a violation of section twelve hundred twenty-b of this chapter as a
48 result of a failure to appear in response to a summons, or appearance
49 ticket received pursuant to such section.

50 (xix) until such time as all penalties and all suspension termination
51 fees are paid where the holder is convicted of a violation of section
52 twelve hundred twenty-b of this chapter and to pay any penalty imposed
53 pursuant to such section.

54 § 3. Notwithstanding the provisions of any other law to the contrary,
55 the port authority of New York and New Jersey (the "port authority") and
56 its police officers may enforce any local law, rule or regulation

1 related to ground transportation service as defined by section twelve
2 hundred-twenty-b of the vehicle and traffic law at airports leased by
3 the port authority within the city of New York ("city") to the same
4 extent as the City or any of its subdivisions.

5 § 4. The commissioner of motor vehicles shall be authorized to estab-
6 lish rules or regulations and take all other actions deemed reasonably
7 necessary to effectuate this act.

8 § 5. This act shall take effect immediately.

9 PART I

10 Section 1. Subdivision 12 of section 1269 of the public authorities
11 law, as amended by section 4 of part NN of chapter 54 of the laws of
12 2016, is amended to read as follows:

13 12. The aggregate principal amount of bonds, notes or other obli-
14 gations issued after the first day of January, nineteen hundred ninety-
15 three by the authority, the Triborough bridge and tunnel authority and
16 the New York city transit authority to fund projects contained in capi-
17 tal program plans approved pursuant to section twelve hundred sixty-
18 nine-b of this title for the period nineteen hundred ninety-two through
19 two thousand [~~nineteen~~] twenty-four shall not exceed [~~fifty-five~~] ninety
20 billion [~~four~~] one hundred [~~ninety-seven~~] million dollars. Such aggre-
21 gate principal amount of bonds, notes or other obligations or the
22 expenditure thereof shall not be subject to any limitation contained in
23 any other provision of law on the principal amount of bonds, notes or
24 other obligations or the expenditure thereof applicable to the authori-
25 ty, the Triborough bridge and tunnel authority or the New York city
26 transit authority. The aggregate limitation established by this subdivi-
27 sion shall not include (i) obligations issued to refund, redeem or
28 otherwise repay, including by purchase or tender, obligations thereto-
29 fore issued either by the issuer of such refunding obligations or by the
30 authority, the New York city transit authority or the Triborough bridge
31 and tunnel authority, (ii) obligations issued to fund any debt service
32 or other reserve funds for such obligations, (iii) obligations issued or
33 incurred to fund the costs of issuance, the payment of amounts required
34 under bond and note facilities, federal or other governmental loans,
35 security or credit arrangements or other agreements related thereto and
36 the payment of other financing, original issue premiums and related
37 costs associated with such obligations, (iv) an amount equal to any
38 original issue discount from the principal amount of such obligations or
39 to fund capitalized interest, (v) obligations incurred pursuant to
40 section twelve hundred seven-m of this article, (vi) obligations
41 incurred to fund the acquisition of certain buses for the New York city
42 transit authority as identified in a capital program plan approved
43 pursuant to chapter fifty-three of the laws of nineteen hundred ninety-
44 two, (vii) obligations incurred in connection with the leasing, selling
45 or transferring of equipment, and (viii) bond anticipation notes or
46 other obligations payable solely from the proceeds of other bonds, notes
47 or other obligations which would be included in the aggregate principal
48 amount specified in the first sentence of this subdivision, whether or
49 not additionally secured by revenues of the authority, or any of its
50 subsidiary corporations, New York city transit authority, or any of its
51 subsidiary corporations, or Triborough bridge and tunnel authority.

52 § 2. This act shall take effect immediately.

53 PART J

1 Section 1. Subdivisions 1, 2, 3, 4, 5 and 6 of section 1209 of the
2 public authorities law are REPEALED.

3 § 2. Paragraph (a) of subdivision 7 of section 1209 of the public
4 authorities law, as amended by section 3 of subpart C of part ZZZ of
5 chapter 59 of the laws of 2019, is amended and a new paragraph (c) is
6 added to read as follows:

7 (a) Except as otherwise provided in this section, all purchase
8 contracts for supplies, materials or equipment involving an estimated
9 expenditure in excess of one million dollars and all contracts for
10 public work involving an estimated expenditure in excess of one million
11 dollars shall be awarded by the authority to the lowest responsible
12 bidder after obtaining sealed bids in the manner hereinafter set forth.
13 The aforesaid shall not apply to contracts for personal, architectural,
14 engineering or other professional services, nor to contracts for
15 projects using the design build contracting method which may in the
16 authority's discretion be solicited and awarded pursuant to a process
17 for competitive request for proposals. The authority may reject all bids
18 and obtain new bids in the manner provided by this section when it is
19 deemed in the public interest to do so or, in cases where two or more
20 responsible bidders submit identical bids which are the lowest bids,
21 award the contract to any of such bidders or obtain new bids from such
22 bidders. In the event that the authority receives no responsive bids or
23 only a single bid in response to an invitation for bids, it may negoti-
24 ate with any firm capable of providing the goods or work that was the
25 subject of the bid. In the event that, after opening bids, it is deter-
26 mined to be in the best interest of the authority to make a change to
27 the specifications or other terms or requirements of the bid, new bids
28 may be solicited from those firms that submitted bids without additional
29 public advertisements. In the event that a low bid contains a non-con-
30 formity or is otherwise non-compliant with the solicitation, the author-
31 ity may permit such bid to be corrected without increase to the low bid
32 price or may reject such bid. Nothing in this paragraph shall obligate
33 the authority to seek new bids after the rejection of bids or after
34 cancellation of an invitation to bid. Nothing in this section shall
35 prohibit the evaluation of bids on the basis of costs or savings includ-
36 ing life cycle costs of the item to be purchased, discounts, and
37 inspection services so long as the invitation to bid reasonably sets
38 forth the criteria to be used in evaluating such costs or savings. Life
39 cycle costs may include but shall not be limited to costs or savings
40 associated with installation, energy use, maintenance, operation and
41 salvage or disposal.

42 (c) To assist the authority in the development, testing and adoption
43 of new and innovative technology, the authority may award contracts for
44 goods or services not to exceed five million dollars to qualified emerg-
45 ing technology companies as defined in section thirty-one hundred two-e
46 of this chapter pursuant to a process established by the board. In
47 screening and selecting emerging technology firms for such awards, the
48 authority may cooperate with the New York city partnership foundation or
49 other such nonprofit organizations.

50 § 3. Paragraph (a) of subdivision 8 of section 1209 of the public
51 authorities law, as amended by chapter 725 of the laws of 1993, is
52 amended to read as follows:

53 (a) Advertisement for bids, when required by this section, shall be
54 published ~~[at least once in a newspaper of general circulation in the~~
55 ~~area served by the authority and in the procurement opportunities news-~~
56 ~~letter published pursuant to article four C of the economic development~~

1 ~~law provided that,~~ on the authority's website, notwithstanding the
2 provisions of article four-C of the economic development law~~[, an adver-~~
3 ~~tisement shall only be required when required by this section. Publica-~~
4 ~~tion in a newspaper of general circulation in the area served or in the~~
5 ~~procurement opportunities newsletter shall not be required if bids for~~
6 ~~contracts for supplies, materials or equipment are of a type regularly~~
7 ~~purchased by the authority and are to be solicited from a list of poten-~~
8 ~~tial suppliers, if such list is or has been developed consistent with~~
9 ~~the provisions of subdivision eleven of this section].~~ Any such adver-
10 tisement shall contain a statement of: (i) the time and place where bids
11 received pursuant to any notice requesting sealed bids will be publicly
12 opened and read; (ii) the name of the contracting agency; (iii) the
13 contract identification number; (iv) a brief description of the public
14 work, supplies, materials, or equipment sought, the location where work
15 is to be performed, goods are to be delivered or services provided and
16 the contract term; (v) the address where bids or proposals are to be
17 submitted; (vi) the date when bids or proposals are due; (vii) a
18 description of any eligibility or qualification requirement or prefer-
19 ence; (viii) a statement as to whether the contract requirements may be
20 fulfilled by a subcontracting, joint venture, or co-production arrange-
21 ment; (ix) any other information deemed useful to potential contractors;
22 and (x) the name, address, and telephone number of the person to be
23 contacted for additional information. At least [~~fifteen business~~] five
24 days shall elapse between the first publication of such advertisement or
25 the solicitation of bids, as the case may be, and the date of opening
26 and reading of bids.

27 § 4. Paragraphs (f) and (g) of subdivision 9 of section 1209 of the
28 public authorities law are relettered paragraphs (e) and (f) and para-
29 graphs (c), (d) and (e), as added by chapter 929 of the laws of 1986,
30 are amended to read as follows:

31 (c) ~~[the authority receives no responsive bids or only a single~~
32 ~~responsive bid in response to an invitation for competitive bids,~~

33 ~~(d)]~~ the authority wishes to experiment with or test a product or
34 technology or new source for such product or technology or evaluate the
35 service or reliability of such product or technology;

36 ~~[(e)]~~ (d) the item is available through an existing contract between a
37 vendor and (i) any department, office, agency, or instrumentality of the
38 United States government or department, agency, office, political subdi-
39 vision, or instrumentality of any state within the United States or (ii)
40 another public authority provided that such other authority utilized a
41 process of competitive bidding or a process of competitive requests for
42 proposals to award such contract or ~~[(iii)]~~ (iii) the state of New York
43 or the city of New York, provided that in any case when the authority
44 under this paragraph determines that obtaining such item thereby would
45 be in the public interest and sets forth the reasons for such determi-
46 nation. The authority shall accept sole responsibility for any payment
47 due the vendor as a result of the authority's order; or

48 § 5. Subdivision 10 of section 1209 of the public authorities law, as
49 added by chapter 929 of the laws of 1986, is amended to read as follows:

50 10. Upon the adoption of a resolution by the authority stating, for
51 reasons of efficiency, economy, compatibility or maintenance reliabil-
52 ity, that there is a need for standardization, the authority may estab-
53 lish procedures whereby particular supplies, materials or equipment are
54 identified on a qualified products list. Such procedures shall provide
55 for products or vendors to be added to or deleted from such list and
56 shall include provisions for public advertisement of the manner in which

1 such lists are compiled. The authority shall review such list no less
2 than [~~twice~~] once a year for the purpose of making modifications there-
3 to. Contracts for particular supplies, materials or equipment identi-
4 fied on a qualified products list may be awarded by the authority to the
5 lowest responsible bidder after obtaining sealed bids in accordance with
6 this section or without competitive sealed bids in instances when the
7 item is available from only a single source, except that the authority
8 may dispense with advertising provided that it mails copies of the invi-
9 tation to bid to all vendors of the particular item on the qualified
10 products list.

11 § 6. Subdivision 1 of section 1265-a of the public authorities law is
12 REPEALED.

13 § 7. Paragraph (a) of subdivision 2 of section 1265-a of the public
14 authorities law, as amended by section 3-a of subpart C of part ZZZ of
15 chapter 59 of the laws of 2019, is amended to read as follows:

16 (a) Except as otherwise provided in this section, all purchase
17 contracts for supplies, materials or equipment involving an estimated
18 expenditure in excess of one million dollars and all contracts for
19 public work involving an estimated expenditure in excess of one million
20 dollars shall be awarded by the authority to the lowest responsible
21 bidder after obtaining sealed bids in the manner hereinafter set forth.
22 For purposes hereof, contracts for public work shall exclude contracts
23 for personal, engineering and architectural, or professional services,
24 and contracts for projects using the design build contracting method
25 which may, in the authority's discretion, be solicited and awarded
26 pursuant to a process for competitive request for proposals. The
27 authority may reject all bids and obtain new bids in the manner provided
28 by this section when it is deemed in the public interest to do so or, in
29 cases where two or more responsible bidders submit identical bids which
30 are the lowest bids, award the contract to any of such bidders or obtain
31 new bids from such bidders. In the event that the authority receives no
32 responsive bids or only a single bid in response to an invitation for
33 bids, it may negotiate with any firm capable of providing the goods or
34 work that was the subject of the bid. In the event that, after opening
35 bids, it is determined to be in the best interest of the authority to
36 make a change to the specifications or other terms or requirements of
37 the bid, new bids may be solicited from those firms that submitted bids
38 without additional public advertisements. In the event that a low bid
39 contains a non-conformity or is otherwise non-compliant with the solic-
40 itation, the authority may permit such bid to be corrected without
41 increase to the low bid price or may reject such bid. Nothing in this
42 paragraph shall obligate the authority to seek new bids after the
43 rejection of bids or after cancellation of an invitation to bid. Noth-
44 ing in this section shall prohibit the evaluation of bids on the basis
45 of costs or savings including life cycle costs of the item to be
46 purchased, discounts, and inspection services so long as the invitation
47 to bid reasonably sets forth the criteria to be used in evaluating such
48 costs or savings. Life cycle costs may include but shall not be limited
49 to costs or savings associated with installation, energy use, mainte-
50 nance, operation and salvage or disposal.

51 § 8. Subdivision 2 of section 1265-a of the public authorities law is
52 amended by adding a new paragraph (d) to read as follows:

53 (d) To assist the authority in the development, testing and adoption
54 of new and innovative technology, the authority may award contracts for
55 goods or services not to exceed five million dollars to qualified emerg-
56 ing technology companies as defined in section thirty-one hundred two-e

1 of this chapter pursuant to a process established by the board. In
2 screening and selecting emerging technology firms for such awards, the
3 authority may cooperate with the New York city partnership foundation or
4 other such nonprofit organizations.

5 § 9. Paragraph (a) of subdivision 3 of section 1265-a of the public
6 authorities law, as amended by chapter 494 of the laws of 1990, is
7 amended to read as follows:

8 (a) Advertisement for bids, when required by this section, shall be
9 published [~~at least once in a newspaper of general circulation in the~~
10 ~~area served by the authority and in the procurement opportunities news-~~
11 ~~letter published pursuant to article four-C of the economic development~~
12 ~~law provided that,~~] on the authority's website notwithstanding the
13 provisions of article four-C of the economic development law[, ~~an adver-~~
14 ~~tisement shall only be required for a purchase contract for supplies,~~
15 ~~materials or equipment when required by this section. Publication in a~~
16 ~~newspaper of general circulation in the area served or in the procure-~~
17 ~~ment opportunities newsletter shall not be required if bids for~~
18 ~~contracts for supplies, materials or equipment are of a type regularly~~
19 ~~purchased by the authority and are to be solicited from a list of poten-~~
20 ~~tial suppliers, if such list is or has been developed consistent with~~
21 ~~the provisions of subdivision six of this section~~]. Any such advertise-
22 ment shall contain a statement of: (i) the time and place where bids
23 received pursuant to any notice requesting sealed bids will be publicly
24 opened and read; (ii) the name of the contracting agency; (iii) the
25 contract identification number; (iv) a brief description of the public
26 work, supplies, materials, or equipment sought, the location where work
27 is to be performed, goods are to be delivered or services provided and
28 the contract term; (v) the address where bids or proposals are to be
29 submitted; (vi) the date when bids or proposals are due; (vii) a
30 description of any eligibility or qualification requirement or prefer-
31 ence; (viii) a statement as to whether the contract requirements may be
32 fulfilled by a subcontracting, joint venture, or co-production arrange-
33 ment; (ix) any other information deemed useful to potential contractors;
34 and (x) the name, address, and telephone number of the person to be
35 contacted for additional information. At least [~~fifteen business~~] five
36 days shall elapse between the first publication of such advertisement or
37 the solicitation of bids, as the case may be, and the date of opening
38 and reading of bids.

39 § 10. Paragraphs (f) and (g) of subdivision 4 of section 1265-a of the
40 public authorities law are relettered paragraphs (e) and (f) and para-
41 graphs (c), (d) and (e), as added by chapter 929 of the laws of 1986,
42 are amended to read as follows:

43 (c) [~~the authority receives no responsive bids or only a single~~
44 ~~responsive bid in response to an invitation for competitive bids,~~

45 ~~(d)]~~ the authority wishes to experiment with or test a product or
46 technology or new source for such product or technology or evaluate the
47 service or reliability of such product or technology;

48 [~~(e)]~~ (d) the item is available through an existing contract between a
49 vendor and (i) any department, office, agency, or instrumentality of the
50 United States government or department, agency, office, political subdi-
51 vision, or instrumentality of any state within the United States or (ii)
52 another public authority provided that such other authority utilized a
53 process of competitive bidding or a process of competitive requests for
54 proposals to award such contracts or [~~(iii)]~~ (iii) Nassau county, or
55 [~~(iii)]~~ (iv) the state of New York or [~~(iv)]~~ (v) the city of New York,
56 provided that in any case when under this paragraph the authority deter-

1 mines that obtaining such item thereby would be in the public interest
2 and sets forth the reasons for such determination. The authority shall
3 accept sole responsibility for any payment due the vendor as a result of
4 the authority's order; or

5 § 11. Subdivision 5 of section 1265-a of the public authorities law,
6 as added by chapter 929 of the laws of 1986, is amended to read as
7 follows:

8 5. Upon the adoption of a resolution by the authority stating, for
9 reasons of efficiency, economy, compatibility or maintenance reliabil-
10 ity, that there is a need for standardization, the authority may estab-
11 lish procedures whereby particular supplies, materials or equipment are
12 identified on a qualified products list. Such procedures shall provide
13 for products or vendors to be added to or deleted from such list and
14 shall include provisions for public advertisement of the manner in which
15 such lists are compiled. The authority shall review such list no less
16 than [~~twice~~] once a year for the purpose of making such modifications.
17 Contracts for particular supplies, materials or equipment identified on
18 a qualified products list may be awarded by the authority to the lowest
19 responsible bidder after obtaining sealed bids in accordance with this
20 section or without competitive sealed bids in instances when the item is
21 available from only a single source, except that the authority may
22 dispense with advertising provided that it mails copies of the invita-
23 tion to bid to all vendors of the particular item on the qualified
24 products list.

25 § 12. Section 15 of part 00 of chapter 54 of the laws of 2016, amend-
26 ing the public authorities law relating to procurements by the New York
27 City transit authority and the metropolitan transportation authority, is
28 amended to read as follows:

29 § 15. This act shall take effect immediately[, ~~and shall expire and be~~
30 ~~deemed repealed April 1, 2021~~].

31 § 13. This act shall take effect immediately, provided, however, that
32 the amendments to paragraph (a) of subdivision 2 of section 1265-a of
33 the public authorities law made by section seven of this act shall not
34 affect the expiration of such paragraph and shall be deemed to expire
35 therewith.

36 PART K

37 Section 1. Section 3 of part PP of chapter 54 of the laws of 2016,
38 amending the general municipal law relating to the New York transit
39 authority and the metropolitan transportation authority, is amended to
40 read as follows:

41 § 3. This act shall take effect immediately; provided that the amend-
42 ments to subdivision 1 of section 119-r of the general municipal law
43 made by section two of this act shall expire and be deemed repealed
44 [~~April 1, 2021~~] December 31, 2024, and provided further that such repeal
45 shall not affect the validity or duration of any contract entered into
46 before that date pursuant to paragraph f of such subdivision.

47 § 2. This act shall take effect immediately.

48 PART L

49 Section 1. Section 1266 of the public authorities law is amended by
50 adding a new subdivision 19 to read as follows:

51 19. Notwithstanding any law to the contrary, the Long Island Rail Road
52 Company and the Metro-North Commuter Railroad Company or their contrac-

tors may without the need for any license, permit, permission, approval or order from any court, administrative tribunal or other governmental agency, bureau or department enter upon any private property abutting their respective rights of way, for the purpose of removing, trimming or cutting back any tree, shrub or other vegetation to preserve the safety and efficiency of commuter rail operations, subject to the following:

(a) except in cases of imminent threat of harm to persons or property, a request has been made to the owner of such private property for permission to enter upon such property for such purpose, which request has been denied or has been granted subject to unreasonable terms and conditions;

(b) the removal, trimming or cutting back of trees, shrubs or other vegetation is limited to that needed to preserve the safety and efficiency of commuter rail operations by (i) preventing the deposit of leaf debris from such trees, shrubs or other vegetation on rail tracks so as to avoid slip-slide conditions during the annual leaf-off season, or (ii) removing trees, shrubs or other vegetation, or branches, limbs or other parts of such trees, shrubs or other vegetation, which are damaged, diseased or situated in such a manner so that they are likely to break or fall off during high winds or extreme weather conditions, posing a risk to commuter railroad facilities, employees or the general public; and

(c) except in the case of invasive species, or species which are poisonous or noxious, or where an entire tree is removed, due care is taken to avoid any trimming or cutting back which would damage the main support systems of such trees, shrubs or other vegetation, with the subject railroad being liable to the property owner for the actual damage done if such trimming or cutting back does in fact damage such main support systems.

Nothing contained in this subdivision shall be construed to eliminate or limit any rights the Long Island Rail Road Company or the Metro-North Commuter Railroad Company may otherwise have under law with respect to the removal, trimming or cutting back of trees, shrubs or other vegetation on private property abutting their rights of way.

§ 2. This act shall take effect immediately.

PART M

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 toll highway, parkway, road, bridge or tunnel or to enter or remain in the tolled central business district described in section seventeen hundred four of the vehicle and traffic law 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 her or for such use of any toll highway, parkway, road, bridge or tunnel or for such entering or remaining in such tolled central business district, he or she obtains or attempts to obtain such service or to use any toll highway, parkway, road, bridge or tunnel or to enter or remain in a tolled central business district 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. Paragraph (b) of subdivision 1 of section 402 of the vehicle and traffic law, as amended by chapter 109 of the laws of 2005, is amended and a new paragraph (c) is added to read as follows:

(b) Number plates shall be kept clean and in a condition so as to be easily readable and shall not 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 such number plates or that distorts a recorded or photographic image of such number plates, and the view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon~~[, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility]~~.

(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 or enter or remain in the tolled central business district described in section seventeen hundred four of this chapter, 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 such number plates, or that distorts a recorded or photographic image of such number plates, and the view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling authority in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling authority. For purposes of this paragraph, "tolling authority" shall mean every public authority which operates a toll highway, bridge and/or tunnel or a central business district tolling program as well as the Port Authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, as amended.

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

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

§ 4. This act shall take effect on the ninetieth day after it shall have become a law.

PART N

Section 1. Subdivision 11 of section 120.05 of the penal law, as separately amended by chapters 268 and 281 of the laws of 2016, is amended to read as follows:

11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner ~~[or]~~, terminal cleaner, station customer assistant; person whose official duties include the sale or collection of tickets, passes, vouchers, or other fare payment media for use on a train or bus; a

1 person whose official duties include the maintenance, repair,
2 inspection, troubleshooting, testing or cleaning of a transit signal
3 system, elevated or underground subway tracks, transit station struc-
4 ture, train yard, revenue train in passenger service, or a train or bus
5 station or terminal; or a supervisor of such personnel, employed by any
6 transit agency, authority or company, public or private, whose operation
7 is authorized by New York state or any of its political subdivisions, a
8 city marshal, a school crossing guard appointed pursuant to section two
9 hundred eight-a of the general municipal law, a traffic enforcement
10 officer, traffic enforcement agent, prosecutor as defined in subdivision
11 thirty-one of section 1.20 of the criminal procedure law, sanitation
12 enforcement agent, New York city sanitation worker, public health sani-
13 tarian, New York city public health sanitarian, registered nurse,
14 licensed practical nurse, emergency medical service paramedic, or emer-
15 gency medical service technician, he or she causes physical injury to
16 such train operator, ticket inspector, conductor, signalperson, bus
17 operator, station agent, station cleaner [~~ex~~], terminal cleaner, station
18 customer assistant; person whose official duties include the sale or
19 collection of tickets, passes, vouchers or other fare payment media for
20 use on a train or bus; a person whose official duties include the main-
21 tenance, repair, inspection, troubleshooting, testing or cleaning of a
22 transit signal system, elevated or underground subway tracks, transit
23 station structure, train yard, revenue train in passenger service, or a
24 train or bus station or terminal; or a supervisor of such personnel,
25 city marshal, school crossing guard appointed pursuant to section two
26 hundred eight-a of the general municipal law, traffic enforcement offi-
27 cer, traffic enforcement agent, prosecutor as defined in subdivision
28 thirty-one of section 1.20 of the criminal procedure law, registered
29 nurse, licensed practical nurse, public health sanitarian, New York city
30 public health sanitarian, sanitation enforcement agent, New York city
31 sanitation worker, emergency medical service paramedic, or emergency
32 medical service technician, while such employee is performing an
33 assigned duty on, or directly related to, the operation of a train or
34 bus, [~~including the~~] cleaning of a train or bus station or terminal or
35 maintenance of a train or bus station or terminal, signal system,
36 elevated or underground subway tracks, transit station structure, train
37 yard or revenue train in passenger service, or such city marshal, school
38 crossing guard, traffic enforcement officer, traffic enforcement agent,
39 prosecutor as defined in subdivision thirty-one of section 1.20 of the
40 criminal procedure law, registered nurse, licensed practical nurse,
41 public health sanitarian, New York city public health sanitarian, sani-
42 tation enforcement agent, New York city sanitation worker, emergency
43 medical service paramedic, or emergency medical service technician is
44 performing an assigned duty; or
45 § 2. This act shall take effect on the ninetieth day after it shall
46 have become a law.

PART O

48 Section 1. Section 240.30 of the penal law is amended by adding a new
49 subdivision 3-a to read as follows:

50 3-a. He or she strikes, shoves, kicks, or otherwise subjects another
51 person to physical contact, which includes spitting on such other
52 person, and such other person is an on-duty train operator; ticket
53 inspector; conductor; signalperson; bus operator; station agent; station
54 cleaner; terminal cleaner; station customer assistant; person whose

official duties include the sale or collection of tickets, passes, vouchers or other fare payment media for use on a train or bus; person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of a transit signal system, elevated or underground subway tracks, transit station structure, train yard, revenue train in passenger service, or train or bus station or terminal; or a supervisor of such personnel, employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions.

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

PART P

Section 1. The penal law is amended by adding a new title Y-3 to read as follows:

TITLE Y-3 TRANSIT CRIMES

ARTICLE 498 TRANSIT CRIMES

Section 498.05 Order of protection of public transit riders.

498.10 Transit trespass.

§ 498.05 Order of protection of public transit riders.

1. When any criminal action is pending against a defendant charged with a crime involving unlawful sexual conduct committed against any metropolitan transportation authority passenger, customer, or employee or an assault-related crime or offense against a metropolitan transportation authority employee committed in or on any of the subways, trains, buses, or other conveyances or facilities of the metropolitan transportation authority or its subsidiaries or of the New York city transit authority or its subsidiaries, the court, in addition to the other powers conferred upon it by this chapter, may as a condition of a pre-trial release, or as a condition of release on bail or an adjournment in contemplation of dismissal, issue a temporary order of protection of public transit riders to ensure the public safety. Such an order may require that the defendant refrain from entering, remaining in or using the facilities or conveyances of the metropolitan transportation authority or its subsidiaries and the New York city transit authority and its subsidiaries. A temporary order of protection of public transit riders shall remain in effect until the final disposition of the case unless revoked by the court.

2. Upon sentencing on a conviction for a crime involving unlawful sexual conduct committed against any metropolitan transportation authority passenger, customer, or employee or an assault-related crime or offense against a metropolitan transportation authority employee committed in or on any facility or conveyance of the metropolitan transportation authority or its subsidiaries or of the New York city transit authority or its subsidiaries, the court may, in addition to any other disposition, enter an order of protection of public transit riders. The duration of such an order shall be three years.

3. In any proceeding in which an order of protection of public transit riders or temporary order of protection of public transit riders has been issued under this section, the clerk of the court shall issue to the defendant and defense counsel and the metropolitan transportation

1 authority, a copy of the order of protection of public transit riders or
2 temporary order of protection of public transit riders.

3 § 498.10 Transit trespass.

4 A person is guilty of transit trespass when, being a person subject to
5 a prohibition order issued by the metropolitan transportation authority
6 pursuant to section twelve hundred sixty-four-b of the public authori-
7 ties law or an order of protection of public transit riders or temporary
8 order of protection of public transit riders issued by a court, he or
9 she knowingly enters or remains in or uses any facility or conveyance of
10 the metropolitan transportation authority or its subsidiaries or of the
11 New York city transit authority or its subsidiaries.

12 Transit trespass is a class A misdemeanor.

13 § 2. The public authorities law is amended by adding a new section
14 1264-b to read as follows:

15 § 1264-b. Prohibition orders. 1. The authority may issue a prohibition
16 order to any person if it determines that:

17 (a) the person: (i) has been issued a summons, an appearance ticket,
18 or a notice of violation for committing a violation of any of the rules
19 and regulations governing the conduct and safety of the public estab-
20 lished by the New York city transit authority, the Manhattan and Bronx
21 surface transit operating authority, the Staten Island rapid transit
22 operating authority, MTA bus company, the Metro-North commuter railroad
23 company, or the Long Island Rail Road company; and (ii) the violation
24 was related to a sexual offense committed against any metropolitan
25 transportation authority passenger, customer, or employee or an
26 assault-related crime or offense against a metropolitan transportation
27 authority employee; and (iii) the person was previously issued two or
28 more summonses, appearance tickets, or notices of violation for commit-
29 ting a violation of any of the rules and regulations governing the
30 conduct and safety of the public established by the New York city trans-
31 it authority, the Manhattan and Bronx surface transit operating authori-
32 ty, the Staten Island rapid transit operating authority, the MTA bus
33 company, the Metro-North commuter railroad company, or the Long Island
34 Rail Road company for a violation related to a sexual offense committed
35 against any metropolitan transportation authority passenger, customer,
36 or employee or an assault-related crime or offense against a metropol-
37 itan transportation authority employee; or

38 (b) the person has been designated a level three sex offender pursuant
39 to the procedures set forth in article six-C of the correction law.

40 2. A person subject to a prohibition order may not use or enter any of
41 the authority's subways, trains, buses, or other conveyances or facili-
42 ties as specified in the order for a period of three years following the
43 issuance of the prohibition order.

44 3. No prohibition order shall be effective unless the authority first
45 affords the person notice and an opportunity to contest the authority's
46 proposed action in accordance with procedures adopted by the authority
47 for this purpose. The authority's procedures shall provide, at a mini-
48 mum, for the notice and other protections set forth in this section, and
49 the authority shall provide reasonable notification to the public of the
50 availability of such procedures.

51 4. (a) A notice of a proposed prohibition order shall set forth a
52 description of the listed crimes or conduct giving rise to the prohibi-
53 tion order, including reference to the applicable statutory provision or
54 ordinance violated, the dates of the listed conduct, the locations where
55 such conduct was committed and the scope of the prohibition. The notice
56 shall include a clear and conspicuous statement indicating the procedure

1 for contesting the proposed prohibition order. The notice shall be
2 served upon the person who is the subject of the proposed prohibition
3 order in the manner set forth in paragraph (b) of this subdivision. The
4 notice of prohibition order, or a copy thereof, shall be considered a
5 record kept in the ordinary course of business of the authority and
6 shall be prima facie evidence of the facts contained in the notice
7 establishing a rebuttable presumption affecting the burden of producing
8 evidence. For purposes of this paragraph, "clear and conspicuous" means
9 in larger type than the surrounding text, or in contrasting type, font,
10 or color to the surrounding text of the same size or set off from the
11 surrounding text of the same size by symbols or other marks that call
12 attention to the language.

13 (b) A proposed prohibition order may be served by:

14 (1) in-person delivery; or

15 (2) delivery by any form of mail providing for delivery confirmation,
16 postage prepaid, to the most recent address provided by the person being
17 served in government records, including, but not limited to, the address
18 set forth in a citation or court records; or

19 (3) any alternate method approved in writing by the authority and the
20 person being served.

21 (c) For purposes of this section, delivery shall be deemed to have
22 been made on the following date, as applicable:

23 (1) on the date of delivery, if delivered in person; or

24 (2) on the date of confirmed delivery, if delivered by mail.

25 (d) Proof of service of the notice shall be filed with the authority.

26 (e) If a person contests a notice of prohibition order, the authority
27 shall proceed in accordance with subdivision six of this section. If the
28 notice of prohibition order is not contested within ten calendar days
29 following service of the notice, the prohibition order shall be deemed
30 final and shall be effective, without further action by the authority
31 for three years.

32 (f) Prohibition orders shall be subject to an automatic stay and shall
33 not take effect until the latest of the following:

34 (1) eleven calendar days following service of the notice of the
35 proposed prohibition order if the order is not contested;

36 (2) eleven calendar days following service of the results of the
37 review if an initial review is timely requested and the proposed prohi-
38 bition order is upheld on review; or

39 (3) the date the hearing officer's decision is served on the person if
40 an administrative hearing is timely requested and the hearing officer
41 upheld the order.

42 5. (a) For a period of ten days from the service of the proposed
43 prohibition order, the person may request an initial review of the
44 prohibition order by the authority. The request may be made by tele-
45 phone, in writing, or in person. There shall be no charge for this
46 review. In conducting its review and reaching a determination, the
47 authority shall determine whether the prohibition order meets the
48 requirements of subdivision one of this section. If, following the
49 initial review, based on these findings, the authority determines that
50 the proposed prohibition order is not adequately supported or that
51 extenuating circumstances make dismissal of the prohibition order appro-
52 priate in the interest of justice, the authority shall cancel the
53 notice. If, following the initial review, based on these findings, the
54 authority determines that the prohibition order should be upheld in
55 whole or in part, the authority shall issue a written statement to that
56 effect, including any modification to the period or scope of the prohi-

1 bition order. The authority shall serve the results of the initial
2 review to the person contesting the notice as set forth in subdivision
3 four of this section.

4 (b) The authority may in its discretion modify or cancel a prohibition
5 order in the interest of justice at any time. If the person depends upon
6 the authority's subways, trains, buses, or other conveyances or facili-
7 ties for trips of necessity, including, but not limited to, travel to or
8 from medical or legal appointments, school or training classes, or plac-
9 es of employment; obtaining food, clothing, and necessary household
10 items; or rendering care to family members, the authority may modify a
11 prohibition order to allow for a trip or trips as in its discretion are
12 necessary. A person requesting that a prohibition order be cancelled or
13 modified in the interest of justice shall have the burden of establish-
14 ing the qualifying circumstances by a preponderance of the evidence.

15 (c) If the person is dissatisfied with the results of the initial
16 review, the person may request an administrative hearing of the prohibi-
17 tion order no later than ten days after the results of the initial
18 review are serviced. The request may be made by telephone, in writing,
19 or in person. An administrative hearing shall be held within thirty days
20 after the receipt of a request for an administrative hearing. The person
21 requesting the hearing may request one continuance, not to exceed seven
22 calendar days.

23 6. The administrative hearing process shall include all of the follow-
24 ing:

25 (a) The person requesting the hearing shall have the choice of a hear-
26 ing by mail or in person. An in-person hearing shall be conducted by the
27 transit adjudication bureau established by section twelve hundred nine-a
28 of this article.

29 (b) The administrative hearing shall be conducted in accordance with
30 written procedures established by the authority. The hearing shall
31 provide an independent, objective, fair, and impartial review of the
32 prohibition order.

33 (c) The administrative review shall be conducted before a hearing
34 officer. In addition to any other requirements, a hearing officer shall
35 demonstrate the qualifications, training, and objectivity as are neces-
36 sary to fulfill and that are consistent with the duties and responsibil-
37 ities set forth in this subdivision.

38 (d) In issuing a decision, the hearing officer shall determine whether
39 the prohibition order meets the requirements of subdivision one of this
40 section. Based upon these findings, the hearing officer may uphold the
41 prohibition order in whole, determine that the prohibition order is not
42 adequately supported by a preponderance of the evidence, or cancel or
43 modify the prohibition order in the interest of justice. If the person
44 depends upon the authority's subways, trains, buses, or other conveyanc-
45 es or facilities for trips of necessity, including, but not limited to,
46 travel to or from medical or legal appointments, school or training
47 classes, or places of employment; obtaining food, clothing, and neces-
48 sary household items; or rendering care to family members, the hearing
49 officer may in their discretion modify a prohibition order to allow for
50 such trips. A person requesting a cancellation or modification in the
51 interest of justice shall have the burden of establishing the qualifying
52 circumstances by a preponderance of the evidence.

53 (e) The hearing officer's decision following the administrative hear-
54 ing shall be served as set forth in subdivision four of this section.

55 (f) A person aggrieved by the final decision of the hearing officer
56 may seek judicial review of the decision within ninety days of service

1 of the decision pursuant to article seventy-eight of the civil practice
2 law and rules.

3 7. A person issued a prohibition order may, within ten days of the
4 date the order becomes effective, request a refund for any prepaid fare
5 amounts rendered unusable in whole or in part by the prohibition order
6 including, but not limited to, monthly passes.

7 8. The provisions of this section shall not be construed to limit the
8 power of any court to issue additional restrictions on a person's abili-
9 ty to use or enter the authority's facilities or conveyances, including
10 but not limited to as a condition of bail or probation or conditional
11 discharge or as a part of any criminal sentence.

12 § 3. This act shall take effect on the ninetieth day after it shall
13 have become a law. Effective immediately, the metropolitan transporta-
14 tion authority may adopt any rules, regulations, policies or procedures
15 necessary to implement this act prior to the effective date of this act.

16 PART Q

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

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

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

32 (a) In addition to such designation of the secretary of state, every
33 domestic corporation or authorized foreign corporation may designate a
34 registered agent in this state upon whom process against such corpo-
35 ration may be served. The agent shall be a natural person who is a resi-
36 dent of or has a business address in this state [~~or~~], a domestic corpo-
37 ration or foreign corporation of any type or kind formed, or authorized
38 to do business in this state[~~r~~] under this chapter or under any other
39 statute of this state, or a domestic limited liability company or
40 foreign limited liability company formed or authorized to do business in
41 this state.

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

45 (1) Service of process on the secretary of state as agent of a domes-
46 tic or authorized foreign corporation, or other business entity that has
47 designated the secretary of state as agent for service of process pursu-
48 ant to article nine of this chapter, shall be made by [~~personally deliv-~~
49 ~~ering to and leaving with the secretary of state or a deputy, or with~~
50 ~~any person authorized by the secretary of state to receive such service,~~
51 ~~at the office of the department of state in the city of Albany, dupli-~~
52 ~~cate copies of such process together with the statutory fee, which fee~~
53 ~~shall be a taxable disbursement] mailing the process and notice of
54 service thereof by certified mail, return receipt requested, to such~~

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

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

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

36 (3) That at least sixty days prior to the filing of the certificate of
37 resignation for receipt of process with the department of state the
38 party has sent a copy of the certificate of resignation for receipt of
39 process by registered or certified mail to the address of the registered
40 agent of the designating corporation, if other than the party filing the
41 certificate of resignation[~~7~~] for receipt of process, or if the [~~resign-~~
42 ~~ing~~] designating corporation has no registered agent, then to the last
43 address of the designating corporation known to the party, specifying
44 the address to which the copy was sent. If there is no registered agent
45 and no known address of the designating corporation, the party shall
46 attach an affidavit to the certificate stating that a diligent but
47 unsuccessful search was made by the party to locate the corporation,
48 specifying what efforts were made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1311. Termination of existence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 686. Designation of secretary of state as agent for service of process; service of process. Any person who shall offer to sell or sell a

franchise in this state as a franchisor, subfranchisor or franchise sales agent shall be deemed to have irrevocably appointed the secretary of state as his or ~~[its]~~ her agent upon whom may be served any summons, complaint, subpoena, subpoena duces tecum, notice, order or other process directed to such person, or any partner, principal, officer, salesman or director thereof, or his or ~~[its]~~ her successor, administrator or executor, in any action, investigation, or proceeding which arises under this article or a rule hereunder, with the same force and validity as if served personally on such person. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with ~~[him or]~~ the secretary of state, a deputy secretary of state, or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state, and such service shall be sufficient provided that notice of such service and a copy of such process are sent forthwith by the department to such person, by registered or certified mail with return receipt requested, at ~~[his]~~ the address ~~[as]~~ set forth in the application for registration of his or her offering prospectus or in the registered offering prospectus itself filed with the department of law pursuant to this article, or in default of the filing of such application or prospectus, at the last address known to the department. Service of such process shall be complete upon receipt by the department of a return receipt purporting to be signed by the addressee or a person qualified to receive ~~[his or its]~~ registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused or unclaimed by the addressee or his or ~~[its]~~ her agent, or if the addressee moved without leaving a forwarding address, upon return to the department of the original envelope bearing a notation by the postal authorities that receipt thereof was refused or that such mail was otherwise undeliverable.

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which ~~[the secretary of state]~~ a person shall mail a copy of any process against a limited liability company served upon ~~[him or 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]~~ 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

1 of a certificate under this chapter directing the mailing to a different
2 post office address.

3 ~~[(e)]~~ (d) (1) Except as otherwise provided in this subdivision, every
4 limited liability company to which this chapter applies, shall biennial-
5 ly in the calendar month during which its articles of organization or
6 application for authority were filed, or effective date thereof if stat-
7 ed, file on forms prescribed by the secretary of state, a statement
8 setting forth the post office address within or without this state to
9 which ~~[the secretary of state]~~ a person shall mail a copy of any process
10 accepted against it served upon ~~[him or her]~~ the secretary of state.
11 Such address shall supersede any previous address on file with the
12 department of state for this purpose.

13 (2) The commissioner of taxation and finance and the secretary of
14 state may agree to allow limited liability companies to include the
15 statement specified in paragraph one of this subdivision on tax reports
16 filed with the department of taxation and finance in lieu of biennial
17 statements and in a manner prescribed by the commissioner of taxation
18 and finance. If this agreement is made, starting with taxable years
19 beginning on or after January first, two thousand sixteen, each limited
20 liability company required to file the statement specified in paragraph
21 one of this subdivision that is subject to the filing fee imposed by
22 paragraph three of subsection (c) of section six hundred fifty-eight of
23 the tax law shall provide such statement annually on its filing fee
24 payment form filed with the department of taxation and finance in lieu
25 of filing a statement under this section with the department of state.
26 However, each limited liability company required to file a statement
27 under this section must continue to file the biennial statement required
28 by this section with the department of state until the limited liability
29 company in fact has filed a filing fee payment form with the department
30 of taxation and finance that includes all required information. After
31 that time, the limited liability company shall continue to provide annu-
32 ally the statement specified in paragraph one of this subdivision on its
33 filing fee payment form in lieu of the biennial statement required by
34 this subdivision.

35 (3) If the agreement described in paragraph two of this subdivision is
36 made, the department of taxation and finance shall deliver to the
37 department of state the statement specified in paragraph one of this
38 subdivision contained on filing fee payment forms. The department of
39 taxation and finance must, to the extent feasible, also include the
40 current name of the limited liability company, department of state iden-
41 tification number for such limited liability company, the name, signa-
42 ture and capacity of the signer of the statement, name and street
43 address of the filer of the statement, and the email address, if any, of
44 the filer of the statement.

45 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
46 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
47 section 301-A of the limited liability company law, as added by chapter
48 448 of the laws of 1998, are amended to read as follows:

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

54 (3) that at least sixty days prior to the filing of the certificate
55 of resignation for receipt of process with the department of state the
56 party has sent a copy of the certificate of resignation for receipt of

1 process by registered or certified mail to the address of the registered
2 agent of the designated limited liability company, if other than the
3 party filing the certificate of resignation[~~r~~] for receipt of process,
4 or if the [~~resigning~~] designating limited liability company has no
5 registered agent, then to the last address of the designated limited
6 liability company known to the party, specifying the address to which
7 the copy was sent. If there is no registered agent and no known address
8 of the designating limited liability company, the party shall attach an
9 affidavit to the certificate stating that a diligent but unsuccessful
10 search was made by the party to locate the limited liability company,
11 specifying what efforts were made.

12 (ii) sent by or on behalf of the plaintiff to such limited liability
13 company by registered or certified mail with return receipt requested to
14 the last address of such limited liability company known to the plain-
15 tiff.

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

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

39 (a) Service of process on the secretary of state as agent of a domes-
40 tic limited liability company [~~or~~], authorized foreign limited liability
41 company, or other business entity that has designated the secretary of
42 state as agent for service of process pursuant to article ten of this
43 chapter, shall be made by mailing the process and notice of service
44 thereof by certified mail, return receipt requested, to such limited
45 liability company or other business entity, at the post office address
46 on file in the department of state specified for this purpose. On the
47 same day as such process is mailed, a duplicate copy of such process and
48 proof of mailing shall be [~~made by~~] personally [~~delivering~~] delivered
49 and [~~leaving~~] left with the secretary of state or his or her deputy, or
50 with any person authorized by the secretary of state to receive such
51 service, at the office of the department of state in the city of Albany,
52 [~~duplicate copies of such process~~] together with the statutory fee,
53 which fee shall be a taxable disbursement. Proof of mailing shall be by
54 affidavit of compliance with this section. Service of process on such
55 limited liability company or other business entity shall be complete
56 when the secretary of state is so served. [~~The secretary of state shall~~

~~promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose.]~~

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

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

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

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

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

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

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

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

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

(b) A certificate of change which changes only the post office address to which ~~[the secretary of state]~~ a person shall mail a copy of any process against a foreign limited liability company served upon ~~[him or]~~ the secretary of state and/or the address of the registered agent, provided such address being changed is the address of a person, partnership ~~[or]~~, corporation or other limited liability company whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited liability company may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the foreign limited liability company by the party signing the certificate

1 not less than thirty days prior to the date of delivery to the depart-
2 ment of state and that such foreign limited liability company has not
3 objected thereto; and that the party signing the certificate is the
4 agent of such foreign limited liability company to whose address [~~the~~
5 ~~secretary of state~~] a person is required to mail copies of process
6 served on the secretary of state or the registered agent, if such be the
7 case. A certificate signed and delivered under this subdivision shall
8 not be deemed to effect a change of location of the office of the
9 foreign limited liability company in whose behalf such certificate is
10 filed.

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

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

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

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

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

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

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

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

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

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

54 (d) Any designated post office address maintained by the secretary of
55 state as agent of a domestic not-for-profit corporation or foreign not-
56 for-profit corporation for the purpose of mailing process shall be the

1 post office address, within or without the state, to which a person
2 shall mail process against such corporation as required by this article.

3 Any designated [~~post-office~~] post office address to which the secretary
4 of state or a person shall mail a copy of process served upon [~~him or~~
5 ~~her~~] the secretary of state as agent of a domestic corporation formed
6 under article four of this chapter or foreign corporation, shall continue
7 until the filing of a certificate under this chapter directing the
8 mailing to a different [~~post-office~~] post office address.

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

12 (a) Every domestic corporation or authorized foreign corporation may
13 designate a registered agent in this state upon whom process against
14 such corporation may be served. The agent shall be a natural person who
15 is a resident of or has a business address in this state or a domestic
16 corporation or foreign corporation of any kind formed[~~7~~] or authorized
17 to do business in this state[~~7~~] under this chapter or under any other
18 statute of this state, or a domestic limited liability company or a
19 foreign limited liability company authorized to do business in this
20 state.

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

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

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

52 (6) 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 § 44. Subparagraph 7 of paragraph (b) of section 801 of the not-for-
2 profit corporation law, as amended by chapter 438 of the laws of 1984,
3 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) that the address of the party has been designated by the limited partnership as the post office address to which ~~[the secretary of state]~~ a person shall mail a copy of any process served on the secretary of

1 state as agent for such limited partnership, and that such party wishes
2 to resign.

3 (3) that at least sixty days prior to the filing of the certificate of
4 resignation for receipt of process with the department of state the
5 party has sent a copy of the certificate of resignation for receipt of
6 process by registered or certified mail to the address of the registered
7 agent of the [~~designated~~] designating limited partnership, if other than
8 the party filing the certificate of resignation[~~r~~] for receipt of proc-
9 ess, or if the [~~resigning~~] designating limited partnership has no regis-
10 tered agent, then to the last address of the [~~designated~~] designating
11 limited partnership, known to the party, specifying the address to which
12 the copy was sent. If there is no registered agent and no known address
13 of the designating limited partnership the party shall attach an affida-
14 vit to the certificate stating that a diligent but unsuccessful search
15 was made by the party to locate the limited partnership, specifying what
16 efforts were made.

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

19 (a) In addition to the designation of the secretary of state, each
20 limited partnership or authorized foreign limited partnership may desig-
21 nate a registered agent upon whom process against the limited partner-
22 ship may be served. The agent must be (i) a natural person who is a
23 resident of this state or has a business address in this state, [~~or~~]
24 (ii) a domestic corporation or a foreign corporation authorized to do
25 business in this state, or (iii) a domestic limited liability company or
26 a foreign limited liability company authorized to do business in this
27 state.

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

31 (a) Service of process on the secretary of state as agent of a domes-
32 tic or authorized foreign limited partnership, or other business entity
33 that has designated the secretary of state as agent for service of proc-
34 ess pursuant to this chapter, shall be made [~~as follows:~~

35 ~~(1) By]~~ by mailing the process and notice of service of process pursu-
36 ant to this section by certified mail, return receipt requested, to such
37 domestic or authorized foreign limited partnership or other business
38 entity, at the post office address on file in the department of state
39 specified for this purpose. On the same day as the process is mailed, a
40 duplicate copy of such process and proof of mailing shall be personally
41 [~~delivering~~] delivered to and [~~leaving~~] left with [~~him or his~~] 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, [~~duplicate copies of such process~~]
45 together with the statutory fee, which fee shall be a taxable disburse-
46 ment. Proof of mailing shall be by affidavit of compliance with this
47 section. Service of process on such limited partnership or other busi-
48 ness entity shall be complete when the secretary of state is so served.

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

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

55 (c) The [~~secretary of state~~] department of state shall keep a record
56 of all process served upon [~~him~~] it under this section and shall record

1 therein the date of such service [~~and his action with reference there-~~
2 ~~to~~]. It shall, upon request made within ten years of such service, issue
3 a certificate under its seal certifying as to the receipt of the process
4 by an authorized person, the date and place of such service and the
5 receipt of the statutory fee. Process served upon the secretary of state
6 under this chapter shall be destroyed by the department after a period
7 of ten years from such service.

8 § 59. Paragraph 3 of subdivision (a) and subparagraph 4 of paragraph
9 (i) of subdivision (c) of section 121-201 of the partnership law, para-
10 graph 3 of subdivision (a) as amended by chapter 264 of the laws of
11 1991, and subparagraph 4 of paragraph (i) of subdivision (c) as amended
12 by chapter 44 of the laws of 2006, are amended to read as follows:

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

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

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

26 (4) a change in the name of the limited partnership, or a change in
27 the post office address to which [~~the secretary of state~~] a person shall
28 mail a copy of any process against the limited partnership served on
29 [~~him~~] the secretary of state, or a change in the name or address of the
30 registered agent, if such change is made other than pursuant to section
31 121-104 or 121-105 of this article.

32 § 61. Section 121-202-A of the partnership law, as added by chapter
33 448 of the laws of 1998, paragraph 2 of subdivision (a) as amended by
34 chapter 172 of the laws of 1999, is amended to read as follows:

35 § 121-202-A. Certificate of change. (a) A certificate of limited part-
36 nership may be changed by filing with the department of state a certif-
37 icate of change entitled "Certificate of Change of (name of limit-
38 ed partnership) under Section 121-202-A of the Revised Limited
39 Partnership Act" and shall be signed and delivered to the department of
40 state. A certificate of change may (i) specify or change the location of
41 the limited partnership's office; (ii) specify or change the post office
42 address to which [~~the secretary of state~~] a person shall mail a copy of
43 process against the limited partnership served upon [~~him~~] the secretary
44 of state; and (iii) make, revoke or change the designation of a regis-
45 tered agent, or to specify or change the address of its registered
46 agent. It shall set forth:

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

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

51 (3) each change effected thereby.

52 (b) A certificate of change which changes only the post office address
53 to which [~~the secretary of state~~] a person shall mail a copy of any
54 process against a limited partnership served upon [~~him or~~] the secretary
55 of state and/or the address of the registered agent, provided such
56 address being changed is the address of a person, partnership, limited

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

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

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

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

31 § 63. Section 121-903-A of the partnership law, as added by chapter
32 448 of the laws of 1998, is amended to read as follows:

33 § 121-903-A. Certificate of change. (a) A foreign limited partnership
34 may change its application for authority by filing with the department
35 of state a certificate of change entitled "Certificate of Change
36 of (name of limited partnership) under Section 121-903-A of the
37 Revised Limited Partnership Act" and shall be signed and delivered to
38 the department of state. A certificate of change may (i) change the
39 location of the limited partnership's office; (ii) change the post
40 office address to which [~~the secretary of state~~] a person shall mail a
41 copy of process against the limited partnership served upon [~~him~~] the
42 secretary of state; and (iii) make, revoke or change the designation of
43 a registered agent, or to specify or change the address of its regis-
44 tered agent. It shall set forth:

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

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

50 (3) each change effected thereby.

51 (b) A certificate of change which changes only the post office address
52 to which [~~the secretary of state~~] a person shall mail a copy of any
53 process against a foreign limited partnership served upon [~~him or~~] the
54 secretary of state and/or the address of the registered agent, provided
55 such address being changed is the address of a person, partnership,
56 limited liability company or corporation whose address, as agent, is the

1 address to be changed or who has been designated as registered agent for
2 such foreign limited partnership shall be signed and delivered to the
3 department of state by such agent. The certificate of change shall set
4 forth the statements required under subdivision (a) of this section;
5 that a notice of the proposed change was mailed to the foreign limited
6 partnership by the party signing the certificate not less than thirty
7 days prior to the date of delivery to the department of state and that
8 such foreign limited partnership has not objected thereto; and that the
9 party signing the certificate is the agent of such foreign limited part-
10 nership to whose address [~~the secretary of state~~] a person is required
11 to mail copies of process served on the secretary of state or the regis-
12 tered agent, if such be the case. A certificate signed and delivered
13 under this subdivision shall not be deemed to effect a change of
14 location of the office of the limited partnership in whose behalf such
15 certificate is filed.

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

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

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

25 (7) A designation of the secretary of state as its agent upon whom
26 process against it may be served in the manner set forth in section
27 121-109 of this article in any action or special proceeding, and a post
28 office address, within or without this state, to which [~~the secretary of~~
29 ~~state~~] a person shall mail a copy of any process served upon [~~him~~] the
30 secretary of state. Such post office address shall supersede any prior
31 address designated as the address to which process shall be mailed.

32 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
33 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
34 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
35 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
36 chapter 643 of the laws of 1995 and such paragraph as redesignated by
37 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of
38 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
39 to read as follows:

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

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

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

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

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

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

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

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

(a) In order for a foreign limited liability partnership to carry on or conduct or transact business or activities as a New York registered foreign limited liability partnership in this state, such foreign limited liability partnership shall file with the department of state a notice which shall set forth: (i) the name under which the foreign limited liability partnership intends to carry on or conduct or transact business or activities in this state; (ii) the date on which and the jurisdiction in which it registered as a limited liability partnership; (iii) the address, within this state, of the principal office of the foreign limited liability partnership; (iv) the profession or professions to be practiced by such foreign limited liability partnership and a statement that it is a foreign limited liability partnership eligible to file a notice under this chapter; (v) a designation of the secretary of state as agent of the foreign limited liability partnership upon whom process against it may be served and the post office address within or without this state, to which [~~the secretary of state~~] a person shall mail a copy of any process against it [~~or~~] served upon [~~it~~] the secretary of state; (vi) if the foreign limited liability partnership is to have a registered agent, its name and address in this state and a

1 statement that the registered agent is to be the agent of the foreign
2 limited liability partnership upon whom process against it may be
3 served; (vii) a statement that its registration as a limited liability
4 partnership is effective in the jurisdiction in which it registered as a
5 limited liability partnership at the time of the filing of such notice;
6 (viii) a statement that the foreign limited liability partnership is
7 filing a notice in order to obtain status as a New York registered
8 foreign limited liability partnership; (ix) if the registration of the
9 foreign limited liability partnership is to be effective on a date later
10 than the time of filing, the date, not to exceed sixty days from the
11 date of filing, of such proposed effectiveness; and (x) any other
12 matters the foreign limited liability partnership determines to include
13 in the notice. Such notice shall be accompanied by either (1) a copy of
14 the last registration or renewal registration (or similar filing), if
15 any, filed by the foreign limited liability partnership with the juris-
16 diction where it registered as a limited liability partnership or (2) a
17 certificate, issued by the jurisdiction where it registered as a limited
18 liability partnership, substantially to the effect that such foreign
19 limited liability partnership has filed a registration as a limited
20 liability partnership which is effective on the date of the certificate
21 (if such registration, renewal registration or certificate is in a
22 foreign language, a translation thereof under oath of the translator
23 shall be attached thereto). Such notice shall also be accompanied by a
24 fee of two hundred fifty dollars.

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

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

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

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

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

47 (i-1) A certificate of change which changes only the post office
48 address to which [~~the secretary of state~~] a person shall mail a copy of
49 any process against a New York registered foreign limited liability
50 partnership served upon [~~him~~] the secretary of state and/or the address
51 of the registered agent, provided such address being changed is the
52 address of a person, partnership, limited liability company or corpo-
53 ration whose address, as agent, is the address to be changed or who has
54 been designated as registered agent of such registered foreign limited
55 liability partnership shall be signed and delivered to the department of
56 state by such agent. The certificate of change shall set forth: (i) the

1 name of the New York registered foreign limited liability partnership;
2 (ii) the date of filing of its initial registration or notice statement;
3 (iii) each change effected thereby; (iv) that a notice of the proposed
4 change was mailed to the limited liability partnership by the party
5 signing the certificate not less than thirty days prior to the date of
6 delivery to the department of state and that such limited liability
7 partnership has not objected thereto; and (v) that the party signing the
8 certificate is the agent of such limited liability partnership to whose
9 address ~~[the secretary of state]~~ a person is required to mail copies of
10 process served on the secretary of state or the registered agent, if
11 such be the case. A certificate signed and delivered under this subdivi-
12 sion shall not be deemed to effect a change of location of the office of
13 the limited liability partnership in whose behalf such certificate is
14 filed. The certificate of change shall be accompanied by a fee of five
15 dollars.

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

19 (a) Service of process on the secretary of state as agent of a regis-
20 tered limited liability partnership or New York registered foreign
21 limited liability partnership under this article shall be made by mail-
22 ing the process and notice of service thereof by certified mail, return
23 receipt requested, to such registered limited liability partnership or
24 New York registered foreign limited liability partnership, at the post
25 office address on file in the department of state specified for such
26 purpose. On the same date that such process is mailed, a duplicate copy
27 of such process and proof of mailing together with the statutory fee,
28 which fee shall be a taxable disbursement, shall be personally ~~[deliver-~~
29 ~~ing]~~ delivered to and ~~[leaving]~~ left with the secretary of state or a
30 deputy, or with any person authorized by the secretary of state to
31 receive such service, at the office of the department of state in the
32 city of Albany, ~~[duplicate copies of such process]~~ together with the
33 statutory fee, that fee shall be a taxable disbursement. Proof of mail-
34 ing shall be by affidavit of compliance with this section. Service of
35 process on such registered limited liability partnership or New York
36 registered foreign limited liability partnership shall be complete when
37 the secretary of state is so served. ~~[The secretary of state shall~~
38 ~~promptly send one of such copies by certified mail, return receipt~~
39 ~~requested, to such registered limited liability partnership, at the post~~
40 ~~office address on file in the department of state specified for such~~
41 ~~purpose.]~~

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

50 (e) Any designated post office address maintained by the secretary of
51 state as agent of a registered limited liability partnership or New York
52 registered foreign limited liability partnership for the purpose of
53 mailing process shall be the post office address, within or without the
54 state, to which a person shall mail process against such limited liabil-
55 ity company as required by this article. Such address shall continue

1 until the filing of a certificate under this chapter directing the mail-
2 ing to a different post office address.

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

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

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

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

19 (3) That at least sixty days prior to the filing of the certificate of
20 resignation for receipt of process with the department of state the
21 party has sent a copy of the certificate of resignation for receipt of
22 process by registered or certified mail to the address of the registered
23 agent of the [~~designated~~] designating limited liability partnership, if
24 other than the party filing the certificate of resignation, for receipt
25 of process, or if the [~~resigning~~] designating limited liability partner-
26 ship has no registered agent, then to the last address of the [~~desig-~~
27 ~~nated~~] designating limited liability partnership, known to the party,
28 specifying the address to which the copy was sent. If there is no regis-
29 tered agent and no known address of the designating limited liability
30 partnership the party shall attach an affidavit to the certificate stat-
31 ing that a diligent but unsuccessful search was made by the party to
32 locate the limited liability partnership, specifying what efforts were
33 made.

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

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

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

47 § 76. Subdivision 15 of section 20.03 of the arts and cultural affairs
48 law, as added by chapter 656 of the laws of 1991, is amended to read as
49 follows:

50 15. "Non-institutional portion" shall mean the part or portion of a
51 combined-use facility other than the institutional portion. If the non-
52 institutional portion, or any part thereof, consists of a condominium,
53 the consent of the trust which has developed or approved the developer
54 of such condominium shall be required prior to any amendment of the
55 declaration of such condominium pursuant to subdivision [~~nine~~] eight of
56 section three hundred thirty-nine-n of the real property law and prior

1 to any amendment of the by-laws of such condominium pursuant to para-
2 graph (j) of subdivision one of section three hundred thirty-nine-v of
3 the real property law, and whether or not such trust is a unit owner of
4 such condominium, it may exercise the rights of the board of managers
5 and an aggrieved unit owner under section three hundred thirty-nine-j of
6 the real property law in the case of a failure of any unit owner of such
7 condominium to comply with the by-laws of such condominium and with the
8 rules, regulations, and decisions adopted pursuant thereto.

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

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

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

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

25 (c) Service of process on the secretary of state as agent of a board
26 of managers shall be made by mailing the process and notice of service
27 of process pursuant to this section by certified mail, return receipt
28 requested, to such board of managers, at the post office address on file
29 in the department of state specified for this purpose. On the same day
30 that such process is mailed, a duplicate copy of such process and proof
31 of mailing shall be personally delivered to and left with the secretary
32 of state or a deputy, or with any person authorized by the secretary of
33 state to receive such service, at the office of the department of state
34 in the city of Albany, a duplicate copy of such process with proof of
35 mailing together with the statutory fee, which shall be a taxable
36 disbursement. Proof of mailing shall be by affidavit of compliance with
37 this section. Service of process on a board of managers shall be
38 complete when the secretary of state is so served.

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

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

48 (f) The department of state shall keep a record of each process served
49 under this section, including the date of service. It shall, upon
50 request, made within ten years of such service, issue a certificate
51 under its seal certifying as to the receipt of process by an authorized
52 person, the date and place of such service and the receipt of the statu-
53 tory fee. Process served on the secretary of state under this section
54 shall be destroyed by the department of state after a period of ten
55 years from such service.

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

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

3. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with ~~him or his~~ the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, ~~duplicate copies~~ a copy of such process and proof of mailing together with a fee of five dollars if the action is solely for the recovery of a sum of money not in excess of two hundred dollars and the process is so endorsed, and a fee of ten dollars in any other action or proceeding, which fee shall be a taxable disbursement. If such process is served upon behalf of a county, city, town or village, or other political subdivision of the state, the fee to be paid to the secretary of state shall be five dollars, irrespective of the amount involved or the nature of the action on account of which such service of process is made. ~~[If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process.]~~ Proof of mailing shall be by affidavit of compliance with this section. Proof of service shall be by affidavit of compliance with this subdivision filed by or on behalf of the plaintiff together with the process, within ten days after such service, with the clerk of the court in which the action or special proceeding is pending. Service made as provided in this section shall be complete ten days after such papers are filed with the clerk of the court and shall have the same force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues.

4. The ~~secretary of state~~ person serving such process shall ~~promptly~~ send ~~one of~~ such ~~copies~~ process by ~~registered~~ certified mail, return receipt requested, to the nonresident broker or nonresident salesman at the post office address of his main office as set forth in the last application filed by him.

§ 80. Subdivision 2 of section 203 of the tax law, as amended by chapter 100 of the laws of 1964, is amended to read as follows:

2. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority ~~[under section two hundred twelve of the general corporation law]~~ or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which ~~the secretary of state~~ a person shall mail a copy of any such process against the corporation which may be served upon ~~him~~ the secretary of state. In case any such corpo-

ration shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed ~~[the secretary of state]~~ a person serving process to mail copies of process served upon ~~[him]~~ the secretary of state to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation ~~[the secretary of state]~~ a person serving process shall mail copies of process thereafter served upon ~~[him]~~ the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which ~~[the secretary of state]~~ a person is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority ~~[under section two hundred twelve of the general corporation law]~~ or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service ~~[duplicate copies]~~ a copy thereof at the office of the department of state in the city of Albany, in which event ~~[the secretary of state]~~ a person serving such process shall forthwith send by ~~[registered]~~ certified mail, return receipt requested, ~~[one of such copies]~~ a duplicate copy to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 81. Section 216 of the tax law, as added by chapter 415 of the laws of 1944, the opening paragraph as amended by chapter 100 of the laws of 1964 and redesignated by chapter 613 of the laws of 1976, is amended to read as follows:

§ 216. Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority ~~[under section two hundred twelve of the general corporation law]~~ or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which ~~[the secretary of~~

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

44 § 82. Subdivisions (a) and (b) of section 310 of the tax law, as added
45 by chapter 400 of the laws of 1983, are amended to read as follows:

46 (a) Designation for service of process.--Every petroleum business
47 which is a corporation, except such a petroleum business having a
48 certificate of authority ~~[under section two hundred twelve of the gener-~~
49 ~~al corporation law]~~ or having authority to do business by virtue of
50 section thirteen hundred five of the business corporation law, shall
51 file in the department of state a certificate of designation in its
52 corporate name, signed and acknowledged by its president or vice-presi-
53 dent or its secretary or treasurer, under its corporate seal, designat-
54 ing the secretary of state as its agent upon whom process in any action
55 provided for by this article may be served within this state, and
56 setting forth an address to which ~~[the secretary of state]~~ a person

1 shall mail a copy of any such process against such petroleum business
2 which may be served upon [~~him~~] the secretary of state. In case any such
3 petroleum business shall have failed to file such certificate of design-
4 nation, it shall be deemed to have designated the secretary of state as
5 its agent upon whom such process against it may be served; and until a
6 certificate of designation shall have been filed such a petroleum busi-
7 ness shall be deemed to have directed [~~the secretary of state~~] a person
8 to mail copies of process served upon [~~him~~] the secretary of state to
9 such petroleum business at its last known office address within or with-
10 out the state. When a certificate of designation has been filed by such
11 a petroleum business [~~the secretary of state~~] a person serving process
12 shall mail copies of process thereafter served upon [~~him~~] the secretary
13 of state to the address set forth in such certificate. Any such petrole-
14 um business, from time to time, may change the address to which [~~the~~
15 ~~secretary of state~~] a person is directed to mail copies of process, by
16 filing a certificate to that effect executed, signed and acknowledged in
17 like manner as a certificate of designation as herein provided.

18 (b) Service of process.--Service of process upon any petroleum busi-
19 ness which is a corporation (including any such petroleum business
20 having a certificate of authority [~~under section two hundred twelve of~~
21 ~~the general corporation law~~] or having authority to do business by
22 virtue of section thirteen hundred five of the business corporation
23 law), in any action commenced at any time pursuant to the provisions of
24 this article, may be made by either (1) personally delivering to and
25 leaving with the secretary of state, a deputy secretary of state or with
26 any person authorized by the secretary of state to receive such service
27 [~~duplicate copies~~] a copy thereof at the office of the department of
28 state in the city of Albany, in which event [~~the secretary of state~~] a
29 person serving process shall forthwith send by [~~registered~~] certified
30 mail, return receipt requested, [~~one of such copies~~] a duplicate copy to
31 such petroleum business at the address designated by it or at its last
32 known office address within or without the state, or (2) personally
33 delivering to and leaving with the secretary of state, a deputy secre-
34 tary of state or with any person authorized by the secretary of state to
35 receive such service, a copy thereof at the office of the department of
36 state in the city of Albany and by delivering a copy thereof to, and
37 leaving such copy with, the president, vice-president, secretary,
38 assistant secretary, treasurer, assistant treasurer, or cashier of such
39 petroleum business, or the officer performing corresponding functions
40 under another name, or a director or managing agent of such petroleum
41 business, personally without the state. Proof of such personal service
42 without the state shall be filed with the clerk of the court in which
43 the action is pending within thirty days after such service, and such
44 service shall be complete ten days after proof thereof is filed.

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

47 PART R

48 Section 1. Section 2 of chapter 21 of the laws of 2003, amending the
49 executive law relating to permitting the secretary of state to provide
50 special handling for all documents filed or issued by the division of
51 corporations and to permit additional levels of such expedited service,
52 as amended by section 1 of part R of chapter 58 of the laws of 2019, is
53 amended to read as follows:

§ 2. This act shall take effect immediately, provided however, that section one of this act shall be deemed to have been in full force and effect on and after April 1, 2003 and shall expire March 31, [2020] 2021.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after March 31, 2020.

PART S

Section 1. The general business law is amended by adding a new section 390-d to read as follows:

§ 390-d. Gender pricing discrimination. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Consumer products" shall mean any goods used, bought or rendered primarily for personal, family or household purposes;

(b) "Consumer services" shall mean any services used, bought or rendered primarily for personal, family or household purposes;

(c) "Substantially similar" shall mean (i) two consumer products that exhibit no substantial differences in the materials used in production, the intended use of the product, and the functional design and features of the product, or (ii) two consumer services that exhibit no substantial difference in the amount of time to provide the services, the difficulty in providing the services, or the cost of providing the services. A difference in coloring among any consumer product shall not be construed as a substantial difference for the purposes of this paragraph.

2. No person, firm, partnership, company, corporation, or other business entity shall sell or offer for sale any two consumer products from the same manufacturer or distributor that are substantially similar, if such products are priced differently based on the gender of the persons for whom the products are marketed and intended.

3. No person, firm, partnership, company, corporation or other business entity shall sell or offer for sale any consumer services that are substantially similar if such services are priced differently based upon the gender of the individuals for whom the services are performed, offered, or marketed.

4. Nothing in this section prohibits price differences in consumer products or consumer services based specifically upon the amount of time, difficulty or cost incurred in manufacturing such product or offering such service.

5. (a) The following business establishments shall clearly and conspicuously disclose to the customer in writing the pricing for each standard service provided:

(i) tailors or businesses providing aftermarket clothing alterations;

(ii) barbers or hair salons;

(iii) dry cleaners and laundries providing services to individuals;

and

(iv) such other business establishments as may be identified and added to this list by regulation.

(b) The price list shall be posted in an area conspicuous to customers. Posted price lists shall be in no less than fourteen-point bold-face type and clearly and completely display pricing for every standard service offered by the business.

(c) The business establishment shall provide the customer with a complete written price list upon request.

1 (d) The business establishment shall display in a conspicuous place at
2 least one clearly visible sign, printed in no less than twenty-four
3 point boldface type, which reads: "NEW YORK LAW PROHIBITS ANY BUSINESS
4 ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR
5 SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE
6 PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST."

7 (e) For the purposes of this subdivision, "standard service" means the
8 fifteen most frequently requested services provided by the business.

9 6. (a) The attorney general may issue a notice directing the cessation
10 of any conduct by a person, firm, partnership, company, corporation, or
11 other business entity which the attorney general has reason to believe
12 has violated this section. If any person, firm, partnership, company,
13 corporation, or other business entity fails to submit evidence demon-
14 strating differences in the amount of time, difficulty or cost incurred
15 in manufacturing such product or offering such service within five busi-
16 ness days after service of such notice, or if the attorney general
17 determines that such evidence fails to demonstrate legally excusable
18 differences provided for in subdivision four of this section, the attor-
19 ney general may bring an action in the name and on behalf of the people
20 of the state of New York to enjoin such acts and to obtain restitution
21 of any moneys or property obtained directly or indirectly by any such
22 unlawful acts. In such action preliminary relief may be granted under
23 article sixty-three of the civil practice law and rules. In any such
24 proceeding, the court shall impose a civil penalty in an amount not to
25 exceed twenty-five thousand dollars.

26 (b) Before any violation of this section is sought to be enjoined, the
27 attorney general shall be required to give the person against whom such
28 proceeding is contemplated notice by certified mail and an opportunity
29 to show in writing within five business days after receipt of notice why
30 proceedings should not be instituted against him, unless the attorney
31 general shall find, in any case in which he seeks preliminary relief,
32 that to give such notice and opportunity is not in the public interest.

33 (c) In addition to the right of action granted to the attorney general
34 pursuant to this section, any person who has been injured by reason of
35 any violation of this section may bring an action in such person's own
36 name to enjoin such unlawful act or practice, an action to recover actu-
37 al damages or fifty dollars, whichever is greater, or both such actions.
38 The court may, in its discretion, increase the award of damages to an
39 amount not to exceed three times the actual damages up to one thousand
40 dollars, if the court finds the defendant willfully or knowingly
41 violated this section. The court may award reasonable attorneys' fees to
42 a prevailing plaintiff.

43 (d) The attorney general shall have power at all times, either
44 personally or by his or her deputies, to subpoena witnesses, to compel
45 their attendance, to administer an oath, to examine any person under
46 oath and to require the production of any relevant books or papers. Such
47 examination may be conducted on any subject relating to the duties
48 imposed upon, or the powers vested in, the attorney general under the
49 provisions of this section. Any person, firm, partnership, company,
50 corporation, or other business entity which fails to obey the command of
51 a subpoena without reasonable excuse or refuses, without reasonable
52 cause, to be sworn or to be examined or to answer a question or to
53 produce a book or paper when ordered so to do by the officer duly
54 conducting such inquiry, or fails to perform any act required hereunder
55 to be performed, shall be guilty of a misdemeanor and shall also be
56 subject to the compulsions provided by the civil practice law and rules.

Any officer participating in such inquiry and any person examined as a witness upon such inquiry who shall disclose to any person other than the attorney general the name of any witness examined or any other information obtained upon such inquiry, except as directed by the attorney general, shall be guilty of a misdemeanor.

(e) Notwithstanding any law to the contrary, all monies recovered or obtained under this article by a state agency or state official or employee acting in their official capacity shall be subject to subdivision eleven of section four of the state finance law.

7. The attorney general may adopt and promulgate rules as may be necessary in carrying out the provisions of this section.

§ 2. Separability clause; construction. If any part or provision of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other provisions or circumstances.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART T

Section 1. The general business law is amended by adding a new article 40 to read as follows:

ARTICLE 40

TELEPHONE CALL ABUSE PREVENTION

Section 900. Short title.

901. Definitions.

902. Telemarketing sales calls mandates, prohibitions, and Do Not Call registry.

903. Telephone call authentication framework.

904. Telephone call blocking.

905. Use of automatic telephone dialing systems and placement of consumer telephone calls.

906. Telemarketing and consumer fraud and abuse prevention act.

§ 900. Short title. This article may be cited as the "telephone call abuse prevention act".

§ 901. Definitions. Unless otherwise indicated, as used in this article, the following terms shall have the following meanings:

1. "Department" means the department of state.

2. "Secretary" means the secretary of state.

3. "Customer" means any natural person who is or may be required to pay for or to exchange consideration for goods and services offered through telemarketing.

4. "Doing business in this state" means conducting telephonic sales calls: a. from a location in this state; or b. from a location outside of this state to consumers residing in this state.

5. "Goods and services" means any goods and services, and such term shall include any real property or any tangible personal property or services of any kind.

1 6. "Negative option feature" means, in an offer or agreement to sell
2 or provide any goods or services, a provision under which the customer's
3 silence or failure to take an affirmative action to reject such goods or
4 services or to cancel the agreement is interpreted by the seller as
5 acceptance of the offer.

6 7. "Person" means any natural person, association, partnership, firm,
7 or corporation and its affiliates or subsidiaries, or other business
8 entity.

9 8. "Telemarketer" means any person who, for financial profit or
10 commercial purposes in connection with telemarketing, a. makes telemar-
11 keting sales calls or electronic messaging texts to a customer when the
12 customer is in this state, b. directly controls or supervises the
13 conduct of a telemarketer, or c. intentionally aids a telemarketer to
14 engage in telemarketing. For the purposes of this article, "commercial
15 purposes" shall mean the sale or offer for sale of goods or services.

16 9. "Telemarketing" means any plan, program or campaign that is
17 conducted to induce payment or the exchange of any other consideration
18 for any goods or services, that involves one or more telephone calls or
19 electronic messaging texts by a telemarketer in which the customer is
20 located within the state at the time of the call. Telemarketing also
21 includes the acceptance or collection of information obtained from tele-
22 phone calls or electronic messaging texts with the intent of providing
23 it to a third party who accepts or collects the information to engage in
24 telemarketing. Telemarketing does not include the solicitation of sales
25 through media other than by telephone calls or electronic messaging text
26 and does not include calls or electronic messaging texts intended to
27 implement or complete a transaction to which the customer has previously
28 consented.

29 10. "Telemarketing sales call" means a telephone call or electronic
30 messaging text, made directly or indirectly by a telemarketer or by any
31 outbound telephone calling technology that delivers a prerecorded
32 message to a customer or to a customer's voicemail or answering machine
33 service, in which such telephone call or electronic messaging text is
34 for the purpose of inducing payment or the exchange of any other consid-
35 eration for any goods or services.

36 11. "Unsolicited telemarketing sales call" means any telemarketing
37 sales call other than a call made:

38 a. in response to an express written or verbal request by the custom-
39 er; or

40 b. in connection with an established business relationship, which has
41 not been terminated by either party, unless such customer has stated to
42 the telemarketer that such customer no longer wishes to receive the
43 telemarketing sales calls of such telemarketer.

44 12. "Caller identification information" means information provided by
45 a caller identification service regarding the telephone number and name
46 of the person calling.

47 13. "Caller identification service" means a service that allows a
48 telephone subscriber to have the telephone number, and, where available,
49 name of the calling party transmitted contemporaneously with the tele-
50 phone call, and that is displayed on a device in or connected to the
51 subscriber's telephone.

52 14. "Electronic messaging text" means real-time or near real-time
53 non-voice messages in text form over communications networks, and
54 includes the transmission of writing, signs, signals, pictures, and
55 sounds of all kinds by aid of wire, cable or other like connection
56 between the points of origin and reception of such transmission.

1 15. "Area code" means the first three digits of the ten-digit tele-
2 phone number.

3 16. "Entity specific 'do-not-call' list" means the list of telephone
4 numbers provided directly to the telemarketer by the owners of the tele-
5 phone numbers for the purpose of being removed from any future telemar-
6 keting calls.

7 17. "Automatic number identification" means any data message, protocol
8 or part thereof which communicates the telephone number to be displayed
9 on the caller identification of the telephone call recipient. Automatic
10 number identification includes a calling party number, initial address
11 message, and calling line identification.

12 18. "New York state automatic number identification" means any auto-
13 matic number identification with an area code designated by the North
14 American numbering plan to cover locations in New York state.

15 19. "North American numbering plan" has the meaning ascribed to it by
16 federal communications commission regulations, defined in 47 C.F.R.
17 section 52.5(d).

18 20. "Public switched telephone network" means all telephones, mobile
19 telephones and devices assigned phone numbers from the North American
20 numbering plan.

21 21. "Voice service" has the meaning ascribed to such term by the
22 federal Telephone Robocall Abuse Criminal Enforcement and Deterrence Act
23 (TRACED) (Public Law No.116-105), or any successive federal law that
24 amends such term.

25 22. "Voice service provider" means any person who provides voice
26 services to subscribers in the state utilizing any technology, regard-
27 less of whether such provider is regulated pursuant to the public
28 service law.

29 23. "Automatic telephone dialing system" means equipment, software, or
30 other technology used to make pre-recorded calls, except for equipment
31 that requires a human to dial or place each individual call one call at
32 a time and requires such human to then remain on each call.

33 24. "Auto-dialed call" means any telephone call initiated by an auto-
34 matic telephone dialing system.

35 25. "SHAKEN" means signature-based handling of asserted information
36 using toKENS.

37 26. "STIR" means secure telephone identity revisited.

38 27. "STIR/SHAKEN authentication framework" means the digital certif-
39 icate scheme to verify and authenticate caller identification for calls
40 carried over an internet protocol (IP) network, based upon standards
41 developed by stakeholders of the information and communications technol-
42 ogy industry, as referenced in the notice of inquiry of the federal
43 communications commission, 32 FCC Rcd 5988.

44 28. "Pooling administrator" means the thousands-block pooling adminis-
45 trator as identified in 47 C.F.R. § 52.20.

46 29. "Consumer" means a natural person who is solicited to purchase,
47 lease or receive a good or service for personal, family or household
48 use.

49 30. "Consumer telephone call" means a call made to a telephone number
50 by a telephone solicitor, whether by device, live operator, or any
51 combination thereof, for the purpose of soliciting a sale of any consum-
52 er goods or services for personal, family or household purposes to the
53 consumer called, or for the purpose of soliciting an extension of credit
54 for consumer goods or services to the consumer called, or for the
55 purpose of obtaining information that will or may be used for the direct
56 solicitation of a sale of consumer goods or services to the consumer

1 called or an extension of credit for such purposes; provided, however,
2 that "consumer telephone call" shall not include a call made by a tele-
3 phone corporation, as defined by subdivision seventeen of section two of
4 the public service law, in response to a specific inquiry initiated by a
5 consumer regarding that consumer's existing or requested telephone
6 service.

7 31. "Telephone solicitor" means a person who makes or causes to be
8 made a consumer telephone call.

9 32. "Applicant" means a person seeking a certificate of registration
10 or to renew a certificate of registration under this section.

11 33. "Investment opportunity" means anything tangible or intangible,
12 that is offered for sale, sold, or traded based wholly or in part on
13 representations, either express or implied, about past, present, or
14 future income, profit, or appreciation.

15 34. "Premium" means anything offered or given, independent of chance,
16 to customers as an incentive to purchase or otherwise contract for goods
17 or services offered through telemarketing.

18 35. "Principal" means any person participating in or responsible for
19 the management of a telemarketer's business, whether or not the position
20 is compensated, including but not limited to an owner in the case of a
21 sole proprietorship, an officer, director or stockholder holding more
22 than ten percent of the outstanding stock in the case of a corporation,
23 a partner in the case of a partnership, and a manager or member in the
24 case of a limited liability company.

25 36. "Prize" means anything offered or purportedly offered and given or
26 purportedly given to a person by chance. For purposes of this defi-
27 nition, chance exists if a person is guaranteed to receive an item and,
28 at the time of the offer or purported offer, the telemarketer does not
29 identify the specific item that the person will receive.

30 37. "Prize promotion" means a sweepstakes or other game of chance or
31 an oral or written, express or implied representation that a person has
32 won, has been selected to receive or is eligible or may be eligible to
33 receive a prize or purported prize.

34 § 902. Telemarketing sales calls mandates, prohibitions, and Do Not
35 Call registry. 1. No telemarketer or seller shall engage in telemarket-
36 ing at any time other than between 8:00 A.M. and 9:00 P.M. at the
37 location of the customer unless the customer has given his or her
38 express consent to the call at a different time. Telemarketers shall
39 provide, in a clear and coherent manner using words with common and
40 everyday meanings, at the beginning of each telemarketing sales call all
41 of the following information:

42 a. the telemarketer's name and the person on whose behalf the solici-
43 itation is being made, if other than the telemarketer;

44 b. the purpose of the telephone call;

45 c. the identity of the goods or services for which a fee will be
46 charged; and

47 d. whether the call is being recorded.

48 2. It shall be unlawful for any telemarketer or seller to knowingly
49 cause any voice service providing caller identification service to tran-
50 smi t misleading, inaccurate, or false caller identification information,
51 provided that it shall not be a violation to substitute (for the name
52 and phone number used in, or billed for, making the call) the name or
53 telephone number of the person or seller on behalf of which a telemar-
54 keting call is placed.

55 3. Prior to the purchase of any good or service, telemarketers shall
56 disclose to the customer the cost of the goods or services that are the

1 subject of the call and if the offer includes a negative option feature,
2 all material terms and conditions of the negative option feature,
3 including, but not limited to the fact that the customer's account will
4 be charged unless the customer takes an affirmative action to avoid the
5 charges, the dates the charges will be submitted for payment, and the
6 specific steps the customer must take to avoid the charge.

7 4. a. The department is authorized to establish, manage, and maintain
8 a no telemarketing sales calls statewide registry which shall contain a
9 list of customers who do not wish to receive unsolicited telemarketing
10 sales calls. The department may contract with a private vendor to estab-
11 lish, manage and maintain such registry, provided the private vendor has
12 maintained national no telemarketing sales calls registries for more
13 than two years, and the contract requires the vendor to provide the no
14 telemarketing sales calls registry in a printed hard copy format and in
15 any other format as prescribed by the department.

16 b. The department is authorized to have the national Do Not Call
17 registry established, managed and maintained by the federal trade
18 commission pursuant to 15 U.S.C. 6151, and referenced by 16 C.F.R.
19 section 310.4 (b)(1)(iii)(B), to serve as the New York state no telemar-
20 keting sales calls statewide registry provided for by this section. The
21 department is further authorized to take whatever administrative actions
22 may be necessary or appropriate for such transition including, but not
23 limited to, providing the telephone numbers of New York customers regis-
24 tered on the no telemarketing sales calls statewide registry to the
25 federal trade commission, for inclusion on the national Do Not Call
26 registry.

27 5. No telemarketer or seller may make or cause to be made any unsolic-
28 ited telemarketing sales call to any customer when that customer's tele-
29 phone number has been on the national Do Not Call registry, established
30 by the federal trade commission, for a period of thirty-one days prior
31 to the date the call is made, pursuant to 16 C.F.R. section
32 310.4(b)(1)(iii)(B).

33 6. It shall be unlawful for any telemarketer doing business in this
34 state to make an unsolicited telemarketing sales call to any person in a
35 county, city, town or village knowingly under a declared state of emer-
36 gency or disaster emergency as described in section twenty-four or twen-
37 ty-eight of the executive law.

38 7. No telemarketer or seller shall initiate any telemarketing sales
39 call by means of a technology that delivers a pre-recorded message,
40 unless the telemarketer or seller has obtained from the customer an
41 express agreement, in writing. No such agreement shall authorize any
42 telemarketing sales calls more than thirty days after execution of the
43 agreement, and the agreement must provide that:

44 a. the telemarketer or seller obtained only after a clear and conspic-
45 uous disclosure, using plain language and printed in type no less than
46 twelve-point type, that the purpose of the agreement is to authorize the
47 seller to make telemarketing sales calls to such customer;

48 b. the telemarketer or seller obtained without requiring, directly or
49 indirectly, that the agreement be executed as a condition of purchasing
50 any good or service;

51 c. evidences the willingness of the customer to receive telemarketing
52 sales calls by or made on behalf of a specific seller;

53 d. includes such customer's telephone number and signature;

54 e. is displayed before any mechanism offered to the customer to verify
55 or acknowledge consent; and

56 f. contains the following language:

1 (i) "This express agreement applies only between the customer and the
2 specific entity offering the agreement, and any named partner or affil-
3 iate entity."

4 (ii) "By clicking or otherwise acknowledging agreement, I understand
5 that I consent to and may receive telemarketing sales calls even if I
6 have previously entered my number on the national Do Not Call registry
7 maintained by the federal trade commission."

8 8. No telemarketer or seller may initiate any telephone call using an
9 automatic telephone dialing system or an artificial or pre-recorded
10 voice, without prior express and verifiable consent from the person
11 receiving the call.

12 9. In the case of any telemarketing sales call delivered by means of a
13 technology that delivers a pre-recorded message that could be received
14 by a customer who can use an automated interactive voice and/or keypress
15 activated opt-out mechanism to assert a Do Not Call request, such call
16 shall include a mechanism that allows the customer to automatically add
17 the number called to the seller's entity specific do not call list, and
18 which mechanism, once invoked, immediately ends the call.

19 10. In the case of any telemarketing sales call delivered by means of
20 a technology that delivers a pre-recorded message that could be answered
21 by an answering machine or voicemail service, that the call include a
22 toll-free number that must connect the customer directly to an automated
23 interactive voice or keypress activated opt-out mechanism that allows
24 the consumer to automatically add the number called to the seller's
25 entity specific do not call list, and which mechanism, once invoked,
26 immediately ends the call.

27 11. In the case of any telemarketing sales call made by a natural
28 person, the telemarketer or seller shall inform the customer that he or
29 she may request that his or her telephone number be added to the sell-
30 er's entity specific do not call list. If the customer opts to do so,
31 the telemarketer or seller shall immediately end the call and shall add
32 the number called to such list or cause the number called to be added to
33 such list.

34 12. No telemarketer or seller shall transmit, share, or otherwise make
35 available any customer's contact information, including name, telephone
36 number, or email address, which has been provided to such telemarketer
37 or seller by such customer, to any person, corporation, or other entity
38 without the express agreement of the consumer in writing or in electronic
39 format, unless otherwise required by law, or pursuant to a lawful
40 subpoena or court order. No such agreement shall authorize a telemarket-
41 er or seller to transmit, share, or otherwise make available such
42 consumer's contact information for more than thirty days after execution
43 of such agreement.

44 13. Telemarketers and sellers shall keep for a period of twenty-four
45 months from the date the record is created records relating to its tele-
46 marketing activities.

47 14. a. The department shall provide notice to customers of the estab-
48 lishment of the national Do Not Call registry. Any customer who wishes
49 to be included on such registry shall notify the federal trade commis-
50 sion as directed by relevant federal regulations.

51 b. Any company that provides local telephone directories to customers
52 in this state shall inform its customers of the provisions of this
53 section by means of publishing a notice in such local telephone directo-
54 ries and on any website and social media page owned, operated or other-
55 wise authorized by such company.

15. When the department has reason to believe a person has engaged in repeated unlawful acts in violation of this section, or when a notice of hearing has been issued pursuant to subdivision sixteen of this section, the department may request in writing the production of relevant documents and records as part of its investigation. If the person upon whom such request was made fails to produce the documents or records within fourteen days after the date of the request, the department may issue and serve subpoenas to compel the production of such documents and records. If any person shall refuse to comply with a subpoena issued under this section, the department may petition a court of competent jurisdiction to enforce the subpoena, and to request a civil penalty not to exceed one thousand dollars per day, actual damages sustained by reason of the failure to comply and such sanctions as the court may direct.

16. a. Where it is determined after an opportunity for a hearing that any person has violated one or more provisions of this section, the secretary, or any person deputized or so designated by him or her, may assess a fine not to exceed twenty-two thousand dollars for each violation.

b. Any proceeding conducted pursuant to paragraph a of this subdivision shall be subject to the state administrative procedure act.

c. Nothing in this subdivision shall be construed to restrict any right which any person may have under any other statute or at common law.

17. The department shall prescribe rules and regulations to administer this section.

18. If any clause, sentence, paragraph or part of this section 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 or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 903. Telephone call authentication framework. 1. Not later than January first, two thousand twenty-one:

a. A voice service provider shall implement the STIR/SHAKEN authentication framework, or alternative technology that provides compatible or superior capability, to verify and authenticate caller identification information in the internet protocol networks of telephone dialing service providers.

b. A voice service provider shall take reasonable measures to implement an effective call authentication framework, or alternative technology that provides compatible or superior capability, to verify and authenticate caller identification information in the non-internet protocol networks of the voice service provider.

2. STIR/SHAKEN certificate authorities providing credentials to commercial, government and not-for-profit organizations using New York state automatic number identifications shall be responsible for investigating and vetting the entities they certify, and shall provide the department annually with all information required under this subdivision. Required due diligence in selecting and managing certificate recipients shall include a minimum of the following:

a. Background checks which establish that the entity, its officers and persons responsible for authorizing official acts of such entity have never been convicted of frauds, felonies or other serious or relevant offenses.

1 b. Establishment of one or more physical address locations in the
2 United States. All such information shall be confirmed and updated annu-
3 ally.

4 c. Any person acting as a certificate authority shall provide a
5 personal assurance that the certificates will be granted in a reputable
6 and lawful manner, and any such person shall be responsible jointly and
7 severally for penalties related to fraud or willful violations.

8 3. Where the federal communications commission has granted a delay of
9 required compliance for any provider or class of providers of voice
10 service or type of voice calls, compliance under paragraph b of subdivi-
11 sion one of this section may be delayed, but only to the extent that
12 such a provider or class of providers of voice service or type of voice
13 calls, materially relies on a non-internet protocol network for the
14 provision of such service or calls, until a call authentication protocol
15 has been developed for calls delivered over non-internet protocol
16 networks and is reasonably available.

17 4. On or before January first, two thousand twenty-one, and thereafter
18 at least once every three years, all voice service providers shall
19 review the best available technology to authenticate caller identifica-
20 tion information and deploy any such technology which may better accom-
21 plish the purpose of this section. Any such upgrades shall be deployed
22 to all subscribers as soon as feasible and at no additional surcharge or
23 fee to such subscribers.

24 5. Deployment of any call authentication technology shall result in no
25 additional surcharge or fee to the subscriber.

26 6. By July thirty-first of the year following the effective date of
27 this section, and annually thereafter, every voice service provider
28 shall file with both the department, and the secretary to the public
29 service commission, a report setting forth its deployment and review of
30 the best available call authentication technology required by this
31 section, as well as any available upgrades thereto and deployment there-
32 of to persons or entities, as well as any other information that the
33 department, in consultation with the department of public service, may
34 require. Such report shall include:

35 a. an analysis of the extent to which voice service providers have
36 implemented the call authentication frameworks described in this
37 section, including whether the availability of necessary equipment and
38 equipment upgrades has impacted such implementation;

39 b. an assessment of the efficacy of the call authentication frameworks
40 described in paragraph b of subdivision one of this section, in address-
41 ing all aspects of call authentication; and

42 c. a sworn statement by a principal or officer of the voice service
43 provider that the information provided is current and accurate.

44 7. Any voice service provider that knowingly fails or neglects to
45 comply with this section, or a rule or regulation adopted thereunder,
46 shall forfeit to the people of the state of New York a sum not less than
47 ten thousand dollars and no more than one hundred thousand dollars
48 constituting a civil penalty for each and every offense and, in the case
49 of a continuing violation, each day shall be deemed a separate and
50 distinct offense.

51 8. Whenever there shall be a violation of this section, an application
52 may be made by either a. the attorney general in the name of the people
53 of the state of New York, or b. in the case of a voice service provider
54 subject to the jurisdiction of the public service commission, to a court
55 or justice having jurisdiction, to issue an injunction, and upon notice
56 to the defendant of not less than five days, to enjoin and restrain the

1 continuance of such violations, and for the enforcement of the penalties
2 provided in this section.

3 9. When the department has reason to believe a person or voice service
4 provider has violated any provision of this section, the department may
5 request in writing the production of relevant documents and records. If
6 the person upon whom such request was made fails to produce the docu-
7 ments or records within fourteen days after the date of the request, the
8 department may issue and serve subpoenas to compel the production of
9 such documents and records. If any person shall refuse to comply with a
10 subpoena issued under this section, the department may petition a court
11 of competent jurisdiction to enforce the subpoena and, notwithstanding
12 any other provision of law, to request a civil penalty not to exceed one
13 thousand dollars per day, actual damages sustained by reason of the
14 failure to comply, and such sanctions as the court may direct.

15 10. The public service commission and the department may promulgate
16 any rules or regulations necessary to implement and enforce the
17 provisions of this section.

18 § 904. Telephone call blocking. 1. Consistent with authorization
19 provided by federal law and rules or orders of the federal communi-
20 cations commission or its successors:

21 a. Voice service providers shall offer services to subscribers capable
22 of blocking calls made from an automatic telephone dialing system or
23 using an artificial or pre-recorded voice to a telephone or other
24 device, on an opt-out basis. Voice service providers shall, in a manner
25 that is clear for a subscriber to understand: (i) offer sufficient
26 information to subscribers so that subscribers can make an informed
27 choice as to whether they wish to opt-out of such service; and (ii)
28 clearly disclose to subscribers what types of calls may be blocked and
29 the risks of blocking wanted calls.

30 b. Voice service providers shall block a call made to a telephone or
31 other device when the subscriber to which the originating number is
32 assigned has requested that calls purporting to originate from that
33 number be blocked because the number is used for inbound calls only.

34 c. Voice service providers shall block calls made to a telephone or
35 other device originating from the following numbers:

36 (i) a number that is not a valid North American numbering plan number;

37 (ii) a valid North American numbering plan number that is not allo-
38 cated to a provider by the North American numbering plan administrator
39 or the pooling administrator; and

40 (iii) a valid North American numbering plan number that is allocated
41 to a provider by the North American number plan administrator or pooling
42 administrator, but is unused, so long as the provider blocking the calls
43 is the allocatee of the number and confirms that the number is unused or
44 has obtained verification from the allocatee that the number is unused
45 at the time of the blocking. An unused number is a number that is not
46 assigned to a subscriber or otherwise set aside for outbound call use.

47 d. Voice service providers shall not block any call made to a tele-
48 phone or other device if (i) the call is made for emergency alert
49 purposes, or (ii) it is a call from a law enforcement or public safety
50 entity.

51 e. Providers of telephone dialing service shall not block a voice call
52 to a subscriber who has requested that no inbound calls be blocked.

53 2. Nothing in this section shall be construed to require blocking of
54 international telephone calls from purported non-North American number-
55 ing plan numbers.

1 3. Deployment of any call blocking services shall result in no addi-
2 tional surcharge or fee to the subscriber.

3 4. On or before January first, two thousand twenty-one, and period-
4 ically thereafter, all voice service providers shall review the best
5 available call blocking technology and deploy any such technology which
6 may better accomplish the purpose of this section. Any such upgrades
7 shall be deployed to all subscribers as soon as feasible and at no addi-
8 tional surcharge or fee to such subscribers.

9 5. By July thirty-first of the year following the effective date of
10 this section, and annually thereafter, every voice service provider
11 shall file with both the department, and the secretary to the public
12 service commission, a report setting forth its deployment and review of
13 the best available call blocking technology required by this section, as
14 well as any available upgrades thereto and deployment thereof to persons
15 or entities, as well as any other information that the department, in
16 consultation with the department of public service, may require. The
17 report shall include a sworn statement by a principal or officer of the
18 voice service provider that the information provided is current and
19 accurate.

20 6. Any voice service provider that knowingly fails or neglects to
21 comply with this section, or a rule or regulation adopted thereunder,
22 shall forfeit to the people of the state of New York a sum not less than
23 ten thousand dollars and no more than one hundred thousand dollars
24 constituting a civil penalty for each and every offense and, in the case
25 of a continuing violation, each day shall be deemed a separate and
26 distinct offense.

27 7. Whenever there shall be a violation of this section, an application
28 may be made by either a. the attorney-general in the name of the people
29 of the state of New York, or b. in the case of voice service provider
30 subject to the jurisdiction of the public service law, the public
31 service commission, to a court or justice having jurisdiction, to issue
32 an injunction, and upon notice to the defendant of not less than five
33 days, to enjoin and restrain the continuance of such violations, and for
34 the enforcement of the penalties provided in this section.

35 8. When the department has reason to believe a person or voice service
36 provider has violated any provision of this section, the department may
37 request in writing the production of relevant documents and records. If
38 the person upon whom such request was made fails to produce the docu-
39 ments or records within fourteen days after the date of the request, the
40 department may issue and serve subpoenas to compel the production of
41 such documents and records. If any person shall refuse to comply with a
42 subpoena issued under this section, the department may petition a court
43 of competent jurisdiction to enforce the subpoena and, notwithstanding
44 any other provision of law, to request a civil penalty not to exceed one
45 thousand dollars per day, actual damages sustained by reason of the
46 failure to comply, and such sanctions as the court may direct.

47 9. The secretary shall promulgate any rules or regulations necessary
48 to implement and enforce the provisions of this section.

49 10. The public service commission may promulgate any rules or regu-
50 lations necessary to implement and enforce the provisions of this
51 section.

52 § 905. Use of automatic telephone dialing systems and placement of
53 consumer telephone calls. 1. No person shall operate an automatic tele-
54 phone dialing system, nor place any consumer telephone call, except in
55 accordance with the provisions of this section. The use of such device
56 by any person, either individually or acting as an officer, agent, or

1 employee of a person operating any automatic telephone dialing system,
2 is subject to the provisions of this section.

3 2. Whenever telephone calls are placed through the use of an automatic
4 telephone dialing system, such device shall do all of the following:

5 a. state at the beginning of the call the nature of the call and the
6 name of the person or on whose behalf the message is being transmitted
7 and at the end of such message the address, and telephone number of the
8 person on whose behalf the message is transmitted, provided such disclo-
9 sures are not otherwise prohibited or restricted by any federal, state
10 or local law; and

11 b. disconnect the automatic telephone dialing system from the tele-
12 phone line upon the termination of the call by either the person calling
13 or the person called.

14 3. No person shall operate an automatic telephone dialing system which
15 uses a random or sequential number generator to produce a number to be
16 called.

17 4. No automatic telephone dialing system shall be used to call and no
18 consumer telephone call shall be placed to an emergency telephone line
19 including but not limited to any 911 or E-911 line, or any emergency
20 line of any volunteer fire company or fire department; any emergency
21 medical service, ambulance service, voluntary ambulance service or
22 hospital ambulance service as defined in section three thousand one of
23 the public health law; any hospital, nursing home, or residential health
24 care facility as defined in section twenty-eight hundred one of the
25 public health law; any adult care facility as defined in section two of
26 the social services law; or any law enforcement agency or to the tele-
27 phone line of any guest room or patient room of any hospital, nursing
28 home, or residential health care facility as defined in section twenty-
29 eight hundred one of the public health law, or any adult care facility
30 as defined by section two of the social services law. It shall not
31 constitute a violation of this subdivision if the person who places such
32 a call can affirmatively establish that the call was placed inadvertent-
33 ly despite good faith efforts on the part of such person to comply with
34 the provisions of this section and such person has implemented a proce-
35 dure to prevent subsequent calls from being placed to a particular
36 prohibited telephone number.

37 5. A telephone solicitor shall not make a consumer telephone call to a
38 consumer unless the telephone solicitor conforms with subparagraph (i)
39 of paragraph b of subdivision five of section nine hundred six of this
40 article. Nothing contained herein shall be deemed to limit, annul,
41 alter, or affect the provisions of subdivision two of this section.

42 6. No telephone solicitor or person who places any consumer telephone
43 call or who operates an automatic telephone dialing system and no
44 employer of any such telephone solicitor or person shall intentionally
45 cause to be installed, or shall intentionally utilize, any blocking
46 device or service to prevent the name and/or telephone number of such
47 solicitor or person, or the name and/or telephone number of his or her
48 employer, from being displayed on a caller identification device of the
49 recipient of any such consumer telephone call. A violation of this
50 subdivision shall be subject to the provisions of subdivision eight of
51 this section.

52 7. a. Federal, state or local municipalities, or any subdivision ther-
53 eof, using an automatic telephone dialing system for emergency purposes
54 shall be exempted from the provisions of this section.

55 b. Notwithstanding the provisions of paragraph a of this subdivision,
56 any entity which operates a telephone warning or alert system which

1 utilizes any such device for emergency purposes shall also be exempted
2 from the provisions of this section.

3 8. Whenever there shall be a violation of this section, an application
4 may be made by the attorney-general in the name of the people of the
5 state of New York to a court or justice having jurisdiction to issue an
6 injunction, and upon notice to the defendant of not less than five days,
7 to enjoin and restrain the continuance of such violations; and if it
8 shall appear to the satisfaction of the court or justice, that the
9 defendant has, in fact, violated this section an injunction may be
10 issued by such court or justice enjoining and restraining any further
11 violation, without requiring proof that any person has, in fact, been
12 injured or damaged thereby. In any such proceeding, the court may make
13 allowances to the attorney-general as provided in paragraph six of
14 subdivision (a) of section eighty-three hundred three of the civil prac-
15 tice law and rules, and direct restitution. Whenever the court shall
16 determine that a violation of subdivision two, three or four of this
17 section has occurred, the court may impose a civil penalty of not more
18 than two thousand dollars per call, up to a total of not more than twen-
19 ty thousand dollars, for calls placed in violation of such subdivisions
20 within a continuous seventy-two hour period. Whenever the court shall
21 determine that a violation of subdivision five of this section, or a
22 violation of subdivision six of this section, has occurred, the court
23 may impose a civil penalty of not more than two thousand dollars. In
24 connection with any such proposed application, the attorney-general is
25 authorized to take proof and make a determination of the relevant facts
26 and to issue subpoenas in accordance with the civil practice law and
27 rules.

28 9. In addition to the right of action granted to the attorney-general
29 pursuant to this section, any person who has received a telephone call
30 in violation of subdivision two, three or four of this section may bring
31 an action in such person's own name to enjoin such unlawful act or prac-
32 tice, an action to recover such person's actual damages or five hundred
33 dollars, whichever is greater, or both such actions. The court may, in
34 its discretion, increase the award of damages to an amount not to exceed
35 three times the actual damages up to one thousand dollars, if the court
36 finds the defendant willfully or knowingly violated such subdivisions.
37 The court may award reasonable attorney's fees to a prevailing plain-
38 tiff. Any damages recoverable pursuant to this section may be recovered
39 in any action which a court may authorize to be brought as a class
40 action pursuant to article nine of the civil practice law and rules.

41 § 906. Telemarketing and consumer fraud and abuse prevention act. 1.
42 Legislative findings and declaration. The legislature finds and declares
43 that the prevention of deceptive and unfair practices in association
44 with telemarketing is in the public interest and subject to the authori-
45 ty of appropriate political subdivisions of the state for the purpose of
46 protecting the public against fraud, deception and other abuses. The
47 legislature intends that the federal telemarketing and consumer fraud
48 and abuse prevention act (P.L. 103-297) be fully enforceable by appro-
49 priate state and local enforcement officials.

50 The legislature further declares that additional requirements applica-
51 ble to the telemarketing industry not present in the federal statute are
52 necessary to protect residents of the state and others from telemarket-
53 ing abuses. The legislature therefore intends that provisions in this
54 section which differ from the aforementioned federal act and other New
55 York state laws regulating telemarketing be construed whenever reason-

1 able as providing additional protections to victims of telemarketing
2 fraud.

3 2. Registration of telemarketers. a. No person shall act as a tele-
4 marketer without first having received a certificate of registration
5 from the secretary as provided in this section. Employees of telemarket-
6 ers shall be exempt from the requirements of this paragraph and para-
7 graph b of this subdivision.

8 b. No person required to register pursuant to paragraph a of this
9 subdivision shall act as a telemarketer without holding a valid certif-
10 icate of registration from the secretary as provided in this section.

11 c. Any applicant shall file with the department an application for a
12 certificate of registration in such form and containing such information
13 as the secretary shall prescribe, including the following:

14 (i) the applicant's name, address and telephone number;

15 (ii) each business name under which the applicant engages in or
16 intends to engage in telemarketing, if such name is different than the
17 applicant's;

18 (iii) the complete street address and primary telephone number of each
19 location, designating the principal location, from which the applicant
20 engages in or intends to engage in telemarketing, including each
21 location at which mail will be received by or on behalf of the appli-
22 cant, and identifying any such location that is a post office box or
23 mail drop;

24 (iv) the name, address and telephone number of each principal of the
25 business;

26 (v) whether the applicant or any principal thereof has been convicted
27 or plead guilty to or is being prosecuted by indictment or information
28 for racketeering, violations of securities laws, or a theft offense of
29 any state, or the United States;

30 (vi) whether any injunction or judgment has been entered into against
31 the applicant or any principal, or such applicant or principal has
32 entered into a settlement agreement, assurance of discontinuance,
33 consent decree or any similar instrument in any civil action involving
34 theft, racketeering, embezzlement, conversion, misappropriation of prop-
35 erty, fraud, or deceptive, unfair, illegal or unconscionable trade prac-
36 tices, and whether any civil action involving such practices is current-
37 ly pending, to the extent not inconsistent with any existing court
38 orders; and

39 (vii) whether the license to engage in any business, trade or profes-
40 sion of the applicant or any principal thereof has been refused,
41 suspended or revoked in any jurisdiction.

42 d. Upon receipt of the completed application for registration and
43 required fee, and unless such certificate of registration has been
44 denied as provided in subdivision four of this section, the secretary
45 shall issue and deliver to the applicant a certificate in such form and
46 manner as the secretary shall prescribe, but which must set forth the
47 applicant's name, business address, and the effective term of the regis-
48 tration. A registration certificate issued or renewed under the
49 provisions of this section shall entitle a person to act as a registered
50 telemarketer for a period of two years from the effective date of the
51 registration.

52 e. Any registration granted under this section may be renewed by the
53 secretary upon application by the holder thereof, in such form as the
54 secretary may prescribe. The secretary shall have the authority to
55 assign staggered expiration dates for licenses at the time of renewal.
56 If the assigned date results in a term that exceeds two years, the

1 applicant shall pay an additional pro-rata adjustment together with the
2 fee prescribed in paragraph f of this subdivision.

3 f. Each application for a certificate of registration shall be accom-
4 panied by a fee of five hundred dollars, which shall not be refundable.

5 g. The fees collected pursuant to this subdivision shall be deposited
6 to the credit of the business and licensing services account established
7 pursuant to the provisions of section ninety-seven-y of the state
8 finance law.

9 h. Any person holding a certificate of registration shall be required
10 to provide notice of any change in the information required of appli-
11 cants by this section, in such form and manner, and within such time
12 period as the secretary shall prescribe.

13 i. No person required to be registered under this subdivision shall be
14 entitled to enforce any agreement or seek any consideration or any other
15 payment for goods and services offered through telemarketing unless such
16 person is in compliance with this subdivision and subdivision four of
17 this section.

18 j. The secretary may prescribe rules and regulations to administer
19 this subdivision and subdivision four of this section.

20 3. Bonding of telemarketers. a. Any applicant shall, at the time of
21 any original application for a certificate of registration, file with
22 the secretary, in the form and amount as prescribed in this subdivision
23 and satisfactory to the secretary:

24 (i) A bond with a corporate surety, from a company authorized to do
25 business in this state; or

26 (ii) An irrevocable letter of credit or a certificate of deposit from
27 a New York state or federally chartered bank, trust company, savings
28 bank or savings and loan association qualified to do business in New
29 York state and insured by the federal deposit insurance corporation.

30 b. Such bond, letter of credit, or certificate of deposit shall be
31 maintained for three years from the date the telemarketer ceases tele-
32 marketing, or three years from the date the certificate of registration
33 terminates, whichever is earlier.

34 c. The principal sum of the bond, letter of credit, or certificate of
35 deposit shall be twenty-five thousand dollars, which shall be maintained
36 until the period specified in paragraph b of this subdivision, subject
37 to paragraph g of this subdivision.

38 d. The bond, letter of credit or certificate of deposit shall be paya-
39 ble in favor of the people of the state of New York for the benefit of
40 any customer injured as a result of a violation of this section, pursu-
41 ant to a determination of any court of competent jurisdiction pursuant
42 to this section, or article ten-B of the personal property law.

43 e. The aggregate liability of the surety upon the bond or the banking
44 organization upon the letter of credit or certificate of deposit to all
45 persons for all breaches of the conditions of the bond shall in no event
46 exceed the amount of the bond, letter of credit or certificate of depos-
47 it.

48 f. The bond, letter of credit or certificate of deposit shall not be
49 canceled, revoked, diminished or terminated except after notice to, and
50 with the consent of, the secretary at least forty-five days in advance
51 of such cancellation, revocation, or termination. Unless the bond is
52 replaced by another bond, letter of credit or certificate of deposit in
53 conformity with this subdivision prior to the expiration of the forty-
54 five day period, the registration of the telemarketer shall be treated
55 as terminated as of the cancellation, revocation or termination of the
56 bond.

1 g. The registration of the telemarketer shall be treated as terminated
2 as of the date the amount of the bond, letter of credit or certificate
3 of deposit falls below the amount required by this subdivision.

4 h. Any change in ownership of a telemarketer shall not release, cancel
5 or terminate liability under this subdivision under any bond, letter of
6 credit, or certificate of deposit filed for any telemarketer as to any
7 customer who was injured as a result of a violation of this section or
8 article ten-B of the personal property law while such bond, letter of
9 credit or certificate of deposit was in effect unless such transferee,
10 purchaser, successor or assignee of such telemarketer obtains a bond,
11 letter of credit or certificate of deposit under this subdivision for
12 the benefit of such customer. Nothing in this paragraph shall be
13 construed to authorize any telemarketer to cancel any bond, letter of
14 credit, or certificate of deposit where such cancellation is not other-
15 wise authorized by this subdivision.

16 4. Refusal to issue, suspension, and revocation of registration. a.
17 The secretary, or any person deputized or so designated by him or her
18 may deny the application of any person for a certificate of registra-
19 tion, refuse to issue a renewal thereof, suspend or revoke such certif-
20 icate or in lieu thereof assess a fine not to exceed one thousand
21 dollars per violation, if he or she determines that such applicant, or
22 any of its principals:

23 (i) has made a material false statement or omitted a material fact in
24 connection with an application under this section;

25 (ii) was the former holder of a certificate of registration issued
26 hereunder which the secretary revoked, suspended, or refused to renew;

27 (iii) has failed to furnish satisfactory evidence of good character,
28 reputation and fitness;

29 (iv) with respect to the applicant, is not the true owner of the tele-
30 marketer, except in the case of a franchise;

31 (v) is in violation of or has violated any of the following statutes
32 and the regulations thereunder, as such statutes and regulations may
33 from time to time be amended:

34 (A) this section;

35 (B) article ten-B of the personal property law;

36 (C) the act of congress entitled the "telemarketing and consumer fraud
37 and abuse prevention act" (P.L. 103-297);

38 (vi) has been convicted or plead guilty to or is being prosecuted by
39 indictment or information for racketeering, violations of securities
40 laws, or a theft offense of this state, or the United States;

41 (vii) has had any injunction or judgment entered against him or her in
42 any civil action, or such applicant or principal has entered into a
43 settlement agreement, assurance of discontinuance, consent decree or any
44 similar instrument involving theft, racketeering, embezzlement, conver-
45 sion, misappropriation of property, fraud or deceptive, unfair, illegal
46 or unconscionable trade practices;

47 (viii) has had a license or registration to engage in any business,
48 occupation or profession suspended or revoked in any jurisdiction which
49 may impact upon the applicant's fitness for registration under this
50 section; or

51 (ix) has committed, or is committing deceptive, unfair, illegal or
52 unconscionable trade practices in violation of the laws of this or any
53 other state or the United States.

54 b. Any proceeding conducted pursuant to paragraph a of this subdivi-
55 sion shall be subject to the state administrative procedure act.

1 5. Deceptive telemarketing acts and practices. a. It shall be unlawful
2 for any telemarketer to directly or indirectly engage in the following
3 conduct:

4 (i) fail to furnish a copy of the certificate of registration at the
5 request of any interested party;

6 (ii) present or attempt to present, as their own, the registration
7 certificate of another;

8 (iii) give false or misleading information;

9 (iv) misrepresent himself or herself to be registered;

10 (v) use or attempt to use a registration certificate which has been
11 revoked, suspended or is otherwise not valid;

12 (vi) advertise telemarketing services without having a valid certif-
13 icate of registration under this section;

14 (vii) represent in any manner that his or her registration constitutes
15 approval or endorsement of any governmental agency;

16 (viii) assist or support any person when the telemarketer or any iden-
17 tified employee knew or should have known that the person was engaged in
18 an act or practice in violation of this section or article ten-B of the
19 personal property law;

20 (ix) request a fee in advance to remove adverse information or modify
21 adverse information to improve a person's credit history or credit
22 record;

23 (x) except for an attorney engaged in the practice of law, request or
24 receive payment in advance from a person to recover or otherwise aid in
25 the return of money or any other item lost by the customer in a prior
26 telemarketing transaction;

27 (xi) obtain or submit for payment a check, draft, or other form of
28 negotiable paper drawn on a person's checking, savings, share, or simi-
29 lar account, without that person's express written authorization;

30 (xii) procure the services of any professional delivery, courier or
31 other pickup service to obtain receipt or possession of a customer's
32 payment, unless the goods or services are delivered with the reasonable
33 opportunity to inspect before any payment is collected; or

34 (xiii) misrepresent, directly or by implication, that a premium is a
35 prize.

36 b. Telemarketers shall provide all of the following information, in a
37 clear and coherent manner using words with common and everyday meanings,
38 when making a telemarketing call:

39 (i) at the beginning of the call and prior to any request by the call-
40 er of the customer to release or disclose any of the customer's personal
41 or financial information, including but not limited, to the customer's
42 name, address, credit card, checking account or other financial account
43 number or information:

44 (A) that the purpose of the telephone call is to offer goods or
45 services for which a fee will be charged or to provide an investment
46 opportunity, whichever is the case;

47 (B) the telemarketer's name and the person on whose behalf the solici-
48 itation is being made if other than the telemarketer;

49 (C) the identity of the goods or services for which a fee will be
50 charged; and

51 (D) whether the call is being recorded.

52 (ii) the cost of the goods or services that are the subject of the
53 call.

54 (iii) in any prize promotion, the odds of being able to receive the
55 prize, and if the odds are not calculable in advance, the factors used
56 in calculating the odds; that no purchase or payment is required to win

1 a prize or to participate in a prize promotion; and the no purchase/no
2 payment method of participating in the prize promotion with either
3 instructions on how to participate or an address or local or toll-free
4 telephone number to which customers may write or call for information on
5 how to participate; and all material costs or conditions to receive or
6 redeem a prize that is the subject of the prize promotion.

7 6. Abusive telemarketing acts or practices. It shall be unlawful for
8 any telemarketer to:

9 a. threaten, intimidate or use profane or obscene language;

10 b. engage in conduct or behavior a reasonable person would deem to be
11 abusive or harassing;

12 c. initiate a telemarketing call to a person, when that person has
13 stated previously that he or she does not wish to receive solicitation
14 calls from that telemarketer provided, however that nothing in this
15 section shall be construed to prohibit a telemarketer from telemarketing
16 goods, services or investment opportunities to any customer of any
17 affiliate, subsidiary or parent of such telemarketer;

18 d. engage in telemarketing to a person's residence at any time other
19 than between 8:00 A.M. and 9:00 P.M. local time, at the called person's
20 location; or

21 e. make a false, deceptive or misleading statement in regard to the
22 requirements of subdivision five of this section to a customer, or to
23 engage in any deceptive or unfair act or practice in association with
24 telemarketing.

25 f. make an unsolicited telemarketing sales call to any person in a
26 county, city, town or village knowingly under a declared state of emer-
27 gency or disaster emergency as described in section twenty-four or twen-
28 ty-eight of the executive law.

29 7. Unlawful transmission of certain caller identification information.
30 It shall be unlawful for any telemarketer or seller to knowingly cause
31 any voice service providing caller identification service to transmit
32 misleading, inaccurate, or false caller identification information,
33 provided that it shall not be a violation to substitute (for the name
34 and phone number used in, or billed for, making the call) the name or
35 telephone number of the person or seller on behalf of which a telemar-
36 keting call is placed.

37 8. Recordkeeping requirements. a. All telemarketers shall keep for a
38 period of twenty-four months from the date the record is produced
39 records of all financial transactions, written notices, disclosures and
40 acknowledgments, including but not limited to:

41 (i) records of calls resulting in a promise by the customer to pay or
42 otherwise exchange consideration for goods and services, including but
43 not limited to the name and last known address of each customer, the
44 goods or services selected, the date such goods were shipped or provided
45 and the quantity provided, the amount charged by the company for the
46 goods or services provided, including all other related fees or charges
47 of any kind, including shipping and handling fees, and the amount actu-
48 ally paid by the customer for the goods and services provided;

49 (ii) the name and last known address of each prize recipient and the
50 prize awarded having a value of twenty-five dollars or more; and

51 (iii) the name, any fictitious name used, the last known home address
52 and telephone number, and the job title for all current and former
53 employees directly involved in telephone sales; provided, however, that
54 if the telemarketer permits fictitious names to be used by employees,
55 each fictitious name must be traceable to only one specific employee.

1 b. A telemarketer may keep the records required by paragraph a of this
2 subdivision in any form, and in the manner, format, or place as they
3 keep such records in the ordinary course of business.

4 c. In the event of any dissolution or termination of the
5 telemarketer's business, a representative of the telemarketer shall
6 maintain all records as required under this subdivision, which shall be
7 the person required to maintain such records in the event of dissolution
8 or termination under rules and regulations issued under the act of
9 congress entitled the "telemarketing and consumer fraud and abuse
10 prevention act" (P.L. 103-297), or any person designated by the tele-
11 marketer. In the event of any sale, assignment or other change of owner-
12 ship of the telemarketer's business, the successor or assignee shall
13 maintain all records required by this subdivision. In any case in which
14 this paragraph applies, the telemarketer shall provide notice to the
15 secretary, in the form and manner designated by the secretary of the
16 disposition of such records within thirty days of the dissolution,
17 termination, sale, assignment or change of ownership.

18 9. Waiver. Any waiver of the provisions of this section by any custom-
19 er shall be unenforceable and void.

20 10. Exemptions. a. The following persons shall be exempt from the
21 registration and bonding requirements set forth in subdivisions two and
22 three of this section:

23 (i) the state, municipalities of the state, or any department or divi-
24 sion of the state or such municipalities;

25 (ii) the United States or any of its departments, agencies or divi-
26 sions;

27 (iii) colleges, universities and other institutions authorized by the
28 regents of the university of the state of New York or comparable body in
29 any other state or jurisdiction, to grant degrees, including licensed
30 private schools and any registered business schools regulated by article
31 one hundred one of the education law;

32 (iv) a person, which has been operating for at least three years a
33 retail business establishment in this state under the same name as that
34 used in connection with telemarketing, and both of the following occur
35 on a continuing basis:

36 (A) Either products are displayed and offered for sale or services are
37 offered for sale and provided at the business establishment; and

38 (B) A majority of the person's business involves buyers' obtaining
39 such products or services at the person's location;

40 (v) any not-for-profit corporation as defined in section one hundred
41 two of the not-for-profit corporation law and charitable organizations.

42 b. The following acts or practices are exempt from the requirements of
43 this section:

44 (i) telephone calls made by a telemarketer, collection agency or
45 attorney engaged in the practice of law for the exclusive purpose of
46 collecting a legal debt owed, in accordance with the applicable
47 provisions of the Federal Fair Debt Collection Practices Act (15 U.S.C.
48 § 1692 et. seq.);

49 (ii) telephone calls in which the sale, lease or other agreement for
50 goods or services is not completed, and payment or authorization of
51 payment is not required, until after a face-to-face sales presentation
52 by a telemarketer, or a meeting between a telemarketer and customer;

53 (iii) telephone calls that are received by a telemarketer initiated by
54 a customer that are not the result of any solicitation by such telemark-
55 eter; and

1 (iv) telephone calls between a telemarketer and any for-profit busi-
2 ness, except calls involving the retail sale of nondurable office or
3 cleaning supplies.

4 c. The following acts or practices are exempt from the requirements of
5 paragraph b of subdivision five of this section:

6 (i) telephone calls pertaining to a renewal or continuation of an
7 existing or prior contractual relationship or the continuation of an
8 established business relationship between a customer and any telemarket-
9 er, provided that the telemarketer discloses any material changes in the
10 terms and conditions of the prior contract, except for calls made by a
11 telemarketer in which the telemarketer or any of its principals has
12 previously engaged in any act or practice described in subparagraphs
13 (i), (ii), (v), (vi), (vii) and (viii) of paragraph a of subdivision
14 four of this section; and

15 (ii) unsolicited telephone calls made by the telemarketer for the
16 purpose of overall efforts to develop new business that include other
17 methods and techniques intended to identify and communicate with poten-
18 tial customers provided however that for all transactions which are
19 incidental to the call and result in the exchange of goods and services
20 the telemarketer shall disclose the following information:

21 (A) the telemarketer's name and the person on whose behalf the solici-
22 itation is being made if other than the telemarketer;

23 (B) the identity of the goods or services for which a fee will be
24 charged; and

25 (C) the cost of the goods or services that are the subject of the
26 call.

27 11. Fee and bonding exemptions. The following persons are exempt from
28 the fee and bonding requirements set forth in paragraph f of subdivision
29 two and subdivision three of this section: A person engaged in a busi-
30 ness or occupation which is licensed, registered, chartered, certified
31 or incorporated with or by any state or federal agency. Provided, howev-
32 er, any person not licensed, registered, chartered, certified or incor-
33 porated with any New York state or federal agency, shall submit evidence
34 to the secretary of state, in a form and manner to be prescribed by the
35 secretary, of any license, registration, charter, certification or
36 incorporation issued by an agency or governmental entity in this or any
37 other state.

38 12. Enforcement. a. Every violation of this section shall be deemed a
39 deceptive act and practice subject to enforcement under article twenty-
40 two-A of this chapter. In addition, the district attorney, county attor-
41 ney, and the corporation counsel shall have concurrent authority to seek
42 the relief in paragraph b of this subdivision, and all civil penalties
43 obtained in any such action shall be retained by the municipality or
44 county.

45 b. In every case where the court shall determine that a violation of
46 this section has occurred, it may impose a civil penalty of not less
47 than one thousand dollars nor more than two thousand dollars for each
48 violation provided that for a violation of subdivision seven of this
49 section, the court may impose a civil penalty of not less than five
50 thousand dollars nor more than ten thousand dollars for each violation.
51 Such penalty shall be in addition to the denial of registration or
52 renewal, suspension of registration or revocation of registration or
53 assessment of a fine authorized by subdivision four of this section.

54 c. Any person who contracts with a telemarketer for telemarketing
55 services and has actual knowledge that the telemarketer is acting in
56 violation of this section shall be deemed to be in violation of this

1 section, unless such person takes reasonable measures to prevent and
2 correct any conduct that violates this section.

3 d. Nothing in this section shall be construed to restrict any right
4 which any person may have under any other statute or the common law.

5 13. Criminal penalties. Any person who is convicted of knowingly
6 violating paragraph a or b of subdivision two of this section, or
7 subparagraph (ii), (iii), (iv) or (v) of paragraph a of subdivision five
8 of this section shall be guilty of a class B misdemeanor. Any person who
9 is convicted of knowingly violating subparagraph (xi) or (xii) of para-
10 graph a of subdivision five of this section shall be guilty of a class A
11 misdemeanor.

12 14. Separability clause; construction. If any part or provision of
13 this section or the application thereof to any person or circumstances
14 be adjudged invalid by any court of competent jurisdiction, such judg-
15 ment shall be confined in its operations to the part, provision or
16 application directly involved in the controversy in which such judgment
17 shall have been rendered and shall not affect or impair the validity of
18 the remainder of this section or the application thereof to other
19 persons or circumstances.

20 § 2. Sections 399-z, 399-p and 399-pp of the general business law are
21 REPEALED.

22 § 3. This act shall take effect immediately.

23 PART U

24 Section 1. Section 70 of the state law is amended to read as follows:

25 § 70. Description of the arms of the state and the state flag. The
26 device of arms of this state[~~, as adopted March sixteenth, seventeen~~
27 ~~hundred and seventy-eight,~~] is hereby declared to be correctly described
28 as follows:

29 Charge. Azure, in a landscape, the sun in fess, rising in splendor or,
30 behind a range of three mountains, the middle one the highest; in base a
31 ship and sloop under sail, passing and about to meet on a river,
32 bordered below by a grassy shore fringed with shrubs, all proper.

33 Crest. On a wreath azure and or, an American eagle proper, rising to
34 the dexter from a two-thirds of a globe terrestrial, showing the north
35 Atlantic ocean with outlines of its shores.

36 Supporters. On a quasi compartment formed by the extension of the
37 scroll.

38 Dexter. The figure of Liberty proper, her hair disheveled and deco-
39 rated with pearls, vested azure, sandaled gules, about the waist a cinc-
40 ture or, fringed gules, a mantle of the last depending from the shoul-
41 ders behind to the feet, in the dexter hand a staff ensigned with a
42 Phrygian cap or, the sinister arm embowed, the hand supporting the
43 shield at the dexter chief point, a royal crown by her sinister foot
44 dejected.

45 Sinister. The figure of Justice proper, her hair disheveled and deco-
46 rated with pearls, vested or, about the waist a cincture azure, fringed
47 gules, sandaled and mantled as Liberty, bound about the eyes with a
48 fillet proper, in the dexter hand a straight sword hilted or, erect,
49 resting on the sinister chief point of the shield, the sinister arm
50 embowed, holding before her her scales proper.

51 Motto. On a scroll below the shield argent, in sable, two lines. On
52 line one, Excelsior and on line two, E pluribus unum.

1 State flag. The state flag is hereby declared to be blue, charged with
2 the arms of the state in the colors as described in the blazon of this
3 section.

4 § 2. (a) Any state flag, object, or printed materials containing the
5 depiction of the former arms of the state may continue to be used until
6 such flag, object, or printed materials' useful life has expired or
7 until the person possessing such flag, object, or printed material
8 replaces it. Such continued use shall not constitute a violation of
9 section seventy-two of the state law.

10 (b) Any electronic depiction of the arms of the state shall be updated
11 within 60 days of the effective date of this act.

12 (c) No state agency, local government, or public authority shall be
13 required to replace a flag solely because such flag contains the former
14 arms of the state.

15 § 3. The secretary of state shall begin to use the new seal as of the
16 effective date of this act.

17 § 4. This act shall take effect on the one hundred eightieth day after
18 it shall have become a law. Effective immediately, the department of
19 state is authorized to take any action, including entering into
20 contracts, that is necessary for the timely implementation of this act
21 on its effective date.

22 PART V

23 Section 1. Subdivision 1 of section 130 of the executive law, as
24 amended by section 1 of subpart D of part II of chapter 55 of the laws
25 of 2019, is amended to read as follows:

26 1. The secretary of state may appoint and commission as many notaries
27 public for the state of New York as in his or her judgment may be deemed
28 best, whose jurisdiction shall be co-extensive with the boundaries of
29 the state. The appointment of a notary public shall be for a term of
30 four years. An application for an appointment as notary public shall be
31 in form and set forth such matters as the secretary of state shall
32 prescribe. Every person appointed as notary public must, at the time of
33 his or her appointment, be ~~a citizen of the United States and either~~ a
34 resident of the state of New York or have an office or place of business
35 in New York state. A notary public who is a resident of the state and
36 who moves out of the state but still maintains a place of business or an
37 office in New York state does not vacate his or her office as a notary
38 public. A notary public who is a nonresident and who ceases to have an
39 office or place of business in this state, vacates his or her office as
40 a notary public. A notary public who is a resident of New York state and
41 moves out of the state and who does not retain an office or place of
42 business in this state shall vacate his or her office as a notary
43 public. A non-resident who accepts the office of notary public in this
44 state thereby appoints the secretary of state as the person upon whom
45 process can be served on his or her behalf. Before issuing to any appli-
46 cant a commission as notary public, unless he or she be an attorney and
47 counsellor at law duly admitted to practice in this state or a court
48 clerk of the unified court system who has been appointed to such posi-
49 tion after taking a civil service promotional examination in the court
50 clerk series of titles, the secretary of state shall satisfy himself or
51 herself that the applicant is of good moral character, has the equiv-
52 alent of a common school education and is familiar with the duties and
53 responsibilities of a notary public; provided, however, that where a
54 notary public applies, before the expiration of his or her term, for

1 reappointment with the county clerk or where a person whose term as
2 notary public shall have expired applies within six months thereafter
3 for reappointment as a notary public with the county clerk, such quali-
4 fying requirements may be waived by the secretary of state, and further,
5 where an application for reappointment is filed with the county clerk
6 after the expiration of the aforementioned renewal period by a person
7 who failed or was unable to re-apply by reason of his or her induction
8 or enlistment in the armed forces of the United States, such qualifying
9 requirements may also be waived by the secretary of state, provided such
10 application for reappointment is made within a period of one year after
11 the military discharge of the applicant under conditions other than
12 dishonorable. In any case, the appointment or reappointment of any
13 applicant is in the discretion of the secretary of state. The secretary
14 of state may suspend or remove from office, for misconduct, any notary
15 public appointed by him or her but no such removal shall be made unless
16 the person who is sought to be removed shall have been served with a
17 copy of the charges against him or her and have an opportunity of being
18 heard. No person shall be appointed as a notary public under this arti-
19 cle who has been convicted, in this state or any other state or territo-
20 ry, of a crime, unless the secretary makes a finding in conformance with
21 all applicable statutory requirements, including those contained in
22 article twenty-three-A of the correction law, that such convictions do
23 not constitute a bar to appointment.

24 § 2. Subdivision 1 of section 130 of the executive law, as amended by
25 chapter 490 of the laws of 2019, is amended to read as follows:

26 1. The secretary of state may appoint and commission as many notaries
27 public for the state of New York as in his or her judgment may be deemed
28 best, whose jurisdiction shall be co-extensive with the boundaries of
29 the state. The appointment of a notary public shall be for a term of
30 four years. An application for an appointment as notary public shall be
31 in form and set forth such matters as the secretary of state shall
32 prescribe. Every person appointed as notary public must, at the time of
33 his or her appointment, be [~~a citizen of the United States and either~~]
34 a resident of the state of New York or have an office or place of business
35 in New York state. A notary public who is a resident of the state and
36 who moves out of the state but still maintains a place of business or an
37 office in New York state does not vacate his or her office as a notary
38 public. A notary public who is a nonresident and who ceases to have an
39 office or place of business in this state, vacates his or her office as
40 a notary public. A notary public who is a resident of New York state and
41 moves out of the state and who does not retain an office or place of
42 business in this state shall vacate his or her office as a notary
43 public. A non-resident who accepts the office of notary public in this
44 state thereby appoints the secretary of state as the person upon whom
45 process can be served on his or her behalf. Before issuing to any appli-
46 cant a commission as notary public, unless he or she be an attorney and
47 counsellor at law duly admitted to practice in this state or a court
48 clerk of the unified court system who has been appointed to such posi-
49 tion after taking a civil service promotional examination in the court
50 clerk series of titles, the secretary of state shall satisfy himself or
51 herself that the applicant is of good moral character, has the equiv-
52 alent of a common school education and is familiar with the duties and
53 responsibilities of a notary public; provided, however, that where a
54 notary public applies, before the expiration of his or her term, for
55 reappointment with the county clerk or where a person whose term as
56 notary public shall have expired applies within six months thereafter

1 for reappointment as a notary public with the county clerk, such quali-
2 fying requirements may be waived by the secretary of state, and further,
3 where an application for reappointment is filed with the county clerk
4 after the expiration of the aforementioned renewal period by a person
5 who failed or was unable to re-apply by reason of his or her induction
6 or enlistment in the armed forces of the United States, such qualifying
7 requirements may also be waived by the secretary of state, provided such
8 application for reappointment is made within a period of one year after
9 the military discharge of the applicant under conditions other than
10 dishonorable, or if the applicant has a qualifying condition, as defined
11 in section three hundred fifty of this chapter, within a period of one
12 year after the applicant has received a discharge other than bad conduct
13 or dishonorable from such service, or if the applicant is a discharged
14 LGBT veteran, as defined in section three hundred fifty of this chapter,
15 within a period of one year after the applicant has received a discharge
16 other than bad conduct or dishonorable from such service. In any case,
17 the appointment or reappointment of any applicant is in the discretion
18 of the secretary of state. The secretary of state may suspend or remove
19 from office, for misconduct, any notary public appointed by him or her
20 but no such removal shall be made unless the person who is sought to be
21 removed shall have been served with a copy of the charges against him or
22 her and have an opportunity of being heard. No person shall be
23 appointed as a notary public under this article who has been convicted,
24 in this state or any other state or territory, of a crime, unless the
25 secretary makes a finding in conformance with all applicable statutory
26 requirements, including those contained in article twenty-three-A of the
27 correction law, that such convictions do not constitute a bar to
28 appointment.

29 § 3. Section 440-a of the real property law, as amended by section 1
30 of subpart G of part II of chapter 55 of the laws of 2019, is amended to
31 read as follows:

32 § 440-a. License required for real estate brokers and salesmen. No
33 person, co-partnership, limited liability company or corporation shall
34 engage in or follow the business or occupation of, or hold himself or
35 itself out or act temporarily or otherwise as a real estate broker or
36 real estate salesman in this state without first procuring a license
37 therefor as provided in this article. No person shall be entitled to a
38 license as a real estate broker under this article, either as an indi-
39 vidual or as a member of a co-partnership, or as a member or manager of
40 a limited liability company or as an officer of a corporation, unless he
41 or she is twenty years of age or over[~~, a citizen of the United States~~
42 ~~or an alien lawfully admitted for permanent residence in the United~~
43 ~~States~~]. No person shall be entitled to a license as a real estate
44 salesman under this article unless he or she is over the age of eighteen
45 years. No person shall be entitled to a license as a real estate broker
46 or real estate salesman under this article who has been convicted in
47 this state or elsewhere of a crime, unless the secretary makes a finding
48 in conformance with all applicable statutory requirements, including
49 those contained in article twenty-three-A of the correction law, that
50 such convictions do not constitute a bar to licensure. No person shall
51 be entitled to a license as a real estate broker or real estate salesman
52 under this article who does not meet the requirements of section 3-503
53 of the general obligations law.

54 Notwithstanding anything to the contrary in this section, tenant asso-
55 ciations and not-for-profit corporations authorized in writing by the
56 commissioner of the department of the city of New York charged with

1 enforcement of the housing maintenance code of such city to manage resi-
2 dential property owned by such city or appointed by a court of competent
3 jurisdiction to manage residential property owned by such city shall be
4 exempt from the licensing provisions of this section with respect to the
5 properties so managed.

6 § 4. Subdivision 1 of section 72 of the general business law, as
7 amended by chapter 164 of the laws of 2003, is amended to read as
8 follows:

9 1. If the applicant is a person, the application shall be subscribed
10 by such person, and if the applicant is a firm or partnership the appli-
11 cation shall be subscribed by each individual composing or intending to
12 compose such firm or partnership. The application shall state the full
13 name, age, residences within the past three years, present and previous
14 occupations of each person or individual so signing the same, [~~that each~~
15 ~~person or individual is a citizen of the United States or an alien~~
16 ~~lawfully admitted for permanent residence in the United States~~] and
17 shall also specify the name of the city, town or village, stating the
18 street and number, if the premises have a street and number, and other-
19 wise such apt description as will reasonably indicate the location ther-
20 eof, where is to be located the principal place of business and the
21 bureau, agency, sub-agency, office or branch office for which the
22 license is desired, and such further facts as may be required by the
23 department of state to show the good character, competency and integrity
24 of each person or individual so signing such application. Each person or
25 individual signing such application shall, together with such applica-
26 tion, submit to the department of state, his photograph, taken within
27 six months prior thereto in duplicate, in passport size and also two
28 sets of fingerprints of his two hands recorded in such manner as may be
29 specified by the secretary of state or the secretary of state's author-
30 ized representative. Before approving such application it shall be the
31 duty of the secretary of state or the secretary of state's authorized
32 representative to forward one copy of such fingerprints to the division
33 of criminal justice services. Upon receipt of such fingerprints, such
34 division shall forward to the secretary of state a report with respect
35 to the applicant's previous criminal history, if any, or a statement
36 that the applicant has no previous criminal history according to its
37 files. If additional copies of fingerprints are required the applicant
38 shall furnish them upon request. Such fingerprints may be submitted to
39 the federal bureau of investigation for a national criminal history
40 record check. The secretary shall reveal the name of the applicant to
41 the chief of police and the district attorney of the applicant's resi-
42 dence and of the proposed place of business and shall request of them a
43 report concerning the applicant's character in the event they shall have
44 information concerning it. The secretary shall take such other steps as
45 may be necessary to investigate the honesty, good character and integri-
46 ty of each applicant. Every such applicant for a license as private
47 investigator shall establish to the satisfaction of the secretary of
48 state (a) if the applicant be a person, or, (b) in the case of a firm,
49 limited liability company, partnership or corporation, at least one
50 member of such firm, partnership, limited liability company or corpo-
51 ration, has been regularly employed, for a period of not less than three
52 years, undertaking such investigations as those described as performed
53 by a private investigator in subdivision one of section seventy-one of
54 this article, as a sheriff, police officer in a city or county police
55 department, or the division of state police, investigator in an agency
56 of the state, county, or United States government, or employee of a

1 licensed private investigator, or has had an equivalent position and
2 experience or that such person or member was an employee of a police
3 department who rendered service therein as a police officer for not less
4 than twenty years or was an employee of a fire department who rendered
5 service therein as a fire marshal for not less than twenty years. Howev-
6 er, employment as a watchman, guard or private patrolman shall not be
7 considered employment as a "private investigator" for purposes of this
8 section. Every such applicant for a license as watch, guard or patrol
9 agency shall establish to the satisfaction of the secretary of state (a)
10 if the applicant be a person, or, (b) in the case of a firm, limited
11 liability company, partnership or corporation, at least one member of
12 such firm, partnership, limited liability company or corporation, has
13 been regularly employed, for a period of not less than two years,
14 performing such duties or providing such services as described as those
15 performed or furnished by a watch, guard or patrol agency in subdivision
16 two of section seventy-one of this article, as a sheriff, police officer
17 in a city or county police department, or employee of an agency of the
18 state, county or United States government, or licensed private investi-
19 gator or watch, guard or patrol agency, or has had an equivalent posi-
20 tion and experience; qualifying experience shall have been completed
21 within such period of time and at such time prior to the filing of the
22 application as shall be satisfactory to the secretary of state. The
23 person or member meeting the experience requirement under this subdivi-
24 sion and the person responsible for the operation and management of each
25 bureau, agency, sub-agency, office or branch office of the applicant
26 shall provide sufficient proof of having taken and passed a written
27 examination prescribed by the secretary of state to test their under-
28 standing of their rights, duties and powers as a private investigator
29 and/or watchman, guard or private patrolman, depending upon the work to
30 be performed under the license. In the case of an application subscribed
31 by a resident of the state of New York such application shall be
32 approved, as to each resident person or individual so signing the same,
33 but not less than five reputable citizens of the community in which such
34 applicant resides or transacts business, or in which it is proposed to
35 own, conduct, manage or maintain the bureau, agency, sub-agency, office
36 or branch office for which the license is desired, each of whom shall
37 subscribe and affirm as true, under the penalties of perjury, that he
38 has personally known the said person or individual for a period of at
39 least five years prior to the filing of such application, that he has
40 read such application and believes each of the statements made therein
41 to be true, that such person is honest, of good character and competent,
42 and not related or connected to the person so certifying by blood or
43 marriage. In the case of an application subscribed by a non-resident of
44 the state of New York such application shall be approved, as to each
45 non-resident person or individual so signing the same by not less than
46 five reputable citizens of the community in which such applicant
47 resides. The certificate of approval shall be signed by such reputable
48 citizens and duly verified and acknowledged by them before an officer
49 authorized to take oaths and acknowledgment of deeds. All provisions of
50 this section, applying to corporations, shall also apply to joint-stock
51 associations, except that each such joint-stock association shall file a
52 duly certified copy of its certificate of organization in the place of
53 the certified copy of its certificate of incorporation herein required.

54 § 5. Subdivision 2 of section 81 of the general business law, as
55 amended by chapter 756 of the laws of 1952 and paragraph (b) as amended
56 by chapter 133 of the laws of 1982, is amended to read as follows:

2. No person shall hereafter be employed by any holder of a license certificate until he shall have executed and furnished to such license certificate holder a verified statement, to be known as "employee's statement," setting forth:

(a) His full name, age and residence address.

~~(b) [That the applicant for employment is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States.]~~

~~(c)~~ The business or occupation engaged in for the three years immediately preceding the date of the filing of the statement, setting forth the place or places where such business or occupation was engaged in, and the name or names of employers, if any.

~~(d)~~ (c) That he has not been convicted of a felony or of any offense involving moral turpitude or of any of the misdemeanors or offenses described in subdivision one of this section.

~~(e)~~ (d) Such further information as the department of state may by rule require to show the good character, competency, and integrity of the person executing the statement.

§ 6. Subdivision 4 of section 89-h of the general business law, as added by chapter 336 of the laws of 1992, is amended to read as follows:

~~[4. Citizenship: be a citizen or resident alien of the United States.]~~

§ 7. This act shall take effect immediately; provided, however, section two of this act shall take effect on the same date and in the same manner as section 36 of chapter 490 of the laws of 2019, takes effect.

PART W

Section 1. Paragraph (c) of subdivision 1 of section 444-e of the real property law, as amended by chapter 541 of the laws of 2019, is amended to read as follows:

(c) have passed the National Home Inspector examination or an examination offered by the secretary, in any format, that in the judgment of the secretary sufficiently tests such applicant to be engaged as a professional home inspector; and

§ 2. This act shall take effect immediately and shall apply to applications for a license as a professional home inspector received on or after November 25, 2019.

PART X

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

(e) If an instrument which is delivered to the department of state for filing complies as to form with the requirements of law and there has been attached to it the consent or approval of the state official, department, board, agency or other body, if any, whose consent to or approval of such instrument or the filing thereof is required by any statute of this state and the filing fee and tax, if any, required by any statute of this state in connection therewith have been paid, the instrument shall be filed and indexed by the department of state. No certificate of authentication or conformity or other proof shall be required with respect to any verification, oath or acknowledgment of any instrument delivered to the department of state under this chapter, if such verification, oath or acknowledgment purports to have been made

1 before a notary public, or person performing the equivalent function, of
2 one of the states, or any subdivision thereof, of the United States or
3 the District of Columbia. Without limiting the effect of section four
4 hundred three of this chapter, filing and indexing by the department of
5 state shall not be deemed a finding that a certificate conforms to law,
6 nor shall it be deemed to constitute an approval by the department of
7 state of the name of the corporation or the contents of the certificate,
8 nor shall it be deemed to prevent any person with appropriate standing
9 from contesting the legality thereof in an appropriate forum. The
10 instrument's date of filing shall be the date the instrument was
11 received by the department of state for filing. An instrument that is
12 determined by the department of state to be unacceptable for filing
13 shall be returned to the person filing the instrument with an explana-
14 tion of the reason for the refusal to file. If the filer returns the
15 corrected instrument within thirty days from the date it was originally
16 received by the department of state and it is determined by the depart-
17 ment of state to be acceptable for filing, the instrument shall be filed
18 and indexed by the department of state and the filing date of the
19 instrument shall be the filing date that would have been applied had the
20 original instrument been acceptable for filing.

21 § 2. Paragraph (r) of section 104-A of the business corporation law is
22 REPEALED.

23 § 3. Section 408 of the business corporation law, as amended by
24 section 3 of part S of chapter 59 of the laws of 2015 and paragraph 1 as
25 amended by chapter 747 of the laws of 2019, is amended to read as
26 follows:

27 § 408. Statement; filing.

28 1. ~~[Except as provided in paragraph eight of this section, each]~~ Each
29 domestic corporation, and each foreign corporation authorized to do
30 business in this state, shall, during the applicable filing period as
31 determined by subdivision three of this section, file a statement
32 setting forth:

33 (a) The name and business address of its chief executive officer.

34 (b) The street address of its principal executive office.

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

39 (d) The number of directors constituting the board and how many direc-
40 tors of such board are women.

41 2. ~~[Except as provided in paragraph eight of this section, such]~~ Such
42 statement shall be made on forms prescribed by the secretary of state,
43 and the information therein contained shall be given as of the date of
44 the execution of the statement. Such statement shall only request
45 reporting of information required under paragraph one of this section.
46 It shall be signed and delivered to the department of state. No fee
47 shall be collected for the filing of the statement.

48 3. ~~[Except as provided in paragraph eight of this section, for]~~ For
49 the purpose of this section the applicable filing period for a corpo-
50 ration shall be the calendar month during which its original certificate
51 of incorporation or application for authority were filed or the effec-
52 tive date thereof if stated. The applicable filing period shall only
53 occur: (a) annually, during the period starting on April 1, 1992 and
54 ending on March 31, 1994; and (b) biennially, during a period starting
55 on April 1 and ending on March 31 thereafter. Those corporations that
56 filed between April 1, 1992 and June 30, 1994 shall not be required to

1 file such statements again until such time as they would have filed, had
2 this subdivision not been amended.

3 4. The provisions of paragraph (g) of section one hundred four of this
4 chapter shall not be applicable to filings pursuant to this section.

5 5. The provisions of this section and section 409 of this article
6 shall not apply to a farm corporation. For the purposes of this subdivi-
7 sion, the term "farm corporation" shall mean any domestic corporation or
8 foreign corporation authorized to do business in this state under this
9 chapter engaged in the production of crops, livestock and livestock
10 products on land used in agricultural production, as defined in section
11 301 of the agriculture and markets law. However, this exception shall
12 not apply to farm corporations that have filed statements with the
13 department of state which have been submitted through the department of
14 taxation and finance pursuant to paragraph eight of this section.

15 6. No such statement shall be accepted for filing when a certificate
16 of resignation for receipt of process has been filed under section three
17 hundred six-A of this chapter unless the corporation has stated a
18 different address for process which does not include the name of the
19 party previously designated in the address for process in such certifi-
20 cate.

21 7. A domestic corporation or foreign corporation may amend its state-
22 ment to change the information required by subparagraphs (a) and (b) of
23 paragraph one of this section. Such amendment shall be made on forms
24 prescribed by the secretary of state. It shall be signed and delivered
25 to the department of state. No fee shall be collected for the filing of
26 the amendment.

27 ~~[8. (a) The commissioner of taxation and finance and the secretary of~~
28 ~~state may agree to allow corporations to provide the statement specified~~
29 ~~in paragraph one of this section on tax reports filed with the depart-~~
30 ~~ment of taxation and finance in lieu of biennial statements. This agree-~~
31 ~~ment may apply to tax reports due for tax years starting on or after~~
32 ~~January first, two thousand sixteen.~~

33 ~~(b) If the agreement described in subparagraph (a) of this paragraph~~
34 ~~is made, each corporation required to file the statement specified in~~
35 ~~paragraph one of this section that is also subject to tax under article~~
36 ~~nine or nine A of the tax law shall include such statement annually on~~
37 ~~its tax report filed with the department of taxation and finance in lieu~~
38 ~~of filing a statement under this section with the department of state~~
39 ~~and in a manner prescribed by the commissioner of taxation and finance.~~
40 ~~However, each corporation required to file a statement under this~~
41 ~~section must continue to file the biennial statement required by this~~
42 ~~section with the department of state until the corporation in fact has~~
43 ~~filed a tax report with the department of taxation and finance that~~
44 ~~includes all required information. After that time, the corporation~~
45 ~~shall continue to deliver annually the statement specified in paragraph~~
46 ~~one of this section on its tax report in lieu of the biennial statement~~
47 ~~required by this section.~~

48 ~~(c) If the agreement described in subparagraph (a) of this paragraph~~
49 ~~is made, the department of taxation and finance shall deliver to the~~
50 ~~department of state for filing the statement specified in paragraph one~~
51 ~~of this section for each corporation that files a tax report containing~~
52 ~~such statement. The department of taxation and finance must, to the~~
53 ~~extent feasible, also include the current name of the corporation,~~
54 ~~department of state identification number for such corporation, the~~
55 ~~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.]~~

§ 4. Section 409 of the business corporation law is REPEALED.

§ 5. Subdivision 16 of section 96 of the executive law, as added by chapter 561 of the laws of 1990, is amended to read as follows:

16. (a) Consistent with the provisions of the corporate laws of the state of New York, the department of state ~~shall~~ may produce or reproduce the content of any informational systems maintained pursuant to such laws. The secretary of state shall establish the type and amount of the reasonable fees to be collected by the department of state for such informational systems. Such fees shall be subject to approval of the director of the budget and shall be promulgated in the official rules and regulations of the department of state in accordance with the provisions of the state administrative procedure act.

(b) Notwithstanding paragraph (a) of this subdivision, the department of state may make the content of any such information systems available to the public on any website maintained by the department of state by the state without charge.

§ 6. Section 209 of the limited liability company law is amended to read as follows:

§ 209. Filing with the department of state. A signed articles of organization and any signed certificate of amendment or other certificates filed pursuant to this chapter or of any judicial decree of amendment or cancellation shall be delivered to the department of state. If the instrument that is delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state in connection therewith has been paid, the instrument shall be filed and indexed by the department of state. The department of state shall not review such articles or certificates for legal sufficiency; its review shall be limited to determining that the form has been completed. The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.

§ 7. Subdivision (e) of section 301 of the limited liability company law, as amended by section 5 of part S of chapter 59 of the laws of 2015, is amended to read as follows:

(e) ~~[(1) Except as otherwise provided in this subdivision, every]~~ 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:

(i) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her. Such address shall supersede any previous address on file with the department of state for this purpose;

(ii) the name and address of any managers appointed or elected in accordance with the articles of organization or operating agreement; and
(iii) the name and address of the ten members with the largest percentage ownership interest, as determined as of the time the statement is filed by the department of state. No fee shall be collected for the filing of the statement.

~~[(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.]~~

§ 8. Subdivision (c) of section 1101 of the limited liability company law is REPEALED.

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

(e) If an instrument which is delivered to the department of state for filing complies as to form with the requirements of law and there has been attached to it the consent or approval of the supreme court justice, governmental body or officer, or, other person or body, if any, whose consent to or approval of such instrument or the filing thereof is required by any statute of this state and the filing fee and tax, if any, required by any statute of this state in connection therewith have been paid, the instrument shall be filed and indexed by the department of state. No certificate of authentication or conformity or other proof shall be required with respect to any verification, oath or acknowledgment of any instrument delivered to the department of state under this chapter, if such verification, oath or acknowledgment purports to have been made before a notary public, or person performing the equivalent

function, of one of the states, or any subdivision thereof, of the United States or the District of Columbia. Without limiting the effect of section four hundred three of this chapter, filing and indexing by the department of state shall not be deemed a finding that a certificate conforms to law, nor shall it be deemed to constitute an approval by the department of state of the name of the corporation or the contents of the certificate, nor shall it be deemed to prevent any person with appropriate standing from contesting the legality thereof in an appropriate forum.

The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.

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

§ 121-206. Filing with the department of state. A signed certificate of limited partnership and any signed certificates of amendment or other certificates filed pursuant to this article or of any judicial decree of amendment or cancellation shall be delivered to the department of state. If the instrument which is delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state in connection therewith has been paid, the instrument shall be filed and indexed by the department of state. The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.

§ 11. Subdivision (e) of section 121-1500 of the partnership law, as added by chapter 576 of the laws of 1994, is amended to read as follows:

(e) If the signed registration or other instrument delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state has been paid, the ~~registration~~ instrument shall be filed and indexed by the department of state. The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing

date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.

§ 12. Subdivision (g) of section 121-1500 of the partnership law, as amended by section 8 of part S of chapter 59 of the laws of 2015, is amended to read as follows:

(g) Each registered limited liability partnership shall, within sixty days prior to the fifth anniversary of the effective date of its registration and every five years thereafter, furnish a statement to the department of state setting forth: (i) the name of the registered limited liability partnership, (ii) the address of the principal office of the registered limited liability partnership, (iii) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is eligible to register as a registered limited liability partnership pursuant to subdivision (a) of this section. The statement shall be executed by one or more partners of the registered limited liability partnership.

~~[The statement shall be accompanied by a fee of twenty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow registered limited liability partnerships to provide the statement specified in this subdivision on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state 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 registered limited liability partnership required to file the statement specified in 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 subdivision with the department of state. However, each registered limited liability partnership required to file a statement under this section must continue to file a statement with the department of state as required by this section until the registered limited liability partnership 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 registered limited liability partnership shall continue to provide annually the statement specified in this subdivision on its filing fee payment form in lieu of the statement required by this subdivision. The commissioner of taxation and finance shall deliver the completed statement specified in this subdivision to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the registered limited liability partnership, department of state identification number for such registered limited liability partnership, 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.]~~

No fee shall be collected for the filing of the statement. If a registered limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such registered limited liability partnership as shown in the last registration or statement or certificate of amendment filed by such registered limited liability

1 partnership, make a proclamation declaring the registration of such
2 registered limited liability partnership to be revoked pursuant to this
3 subdivision. The department of state shall file the original proclama-
4 tion in its office and shall publish a copy thereof in the state regis-
5 ter no later than three months following the date of such proclamation.

6 ~~[This shall not apply to registered limited liability partnerships that~~
7 ~~have filed a statement with the department of state through the depart-~~
8 ~~ment of taxation and finance.]~~ Upon the publication of such proclamation

9 in the manner aforesaid, the registration of each registered limited
10 liability partnership named in such proclamation shall be deemed revoked
11 without further legal proceedings. Any registered limited liability
12 partnership whose registration was so revoked may file in the department
13 of state a statement required by this subdivision. The filing of such
14 statement shall have the effect of annulling all of the proceedings
15 theretofore taken for the revocation of the registration of such regis-
16 tered limited liability partnership under this subdivision and (1) the
17 registered limited liability partnership shall thereupon have such
18 powers, rights, duties and obligations as it had on the date of the
19 publication of the proclamation, with the same force and effect as if
20 such proclamation had not been made or published and (2) such publica-
21 tion shall not affect the applicability of the provisions of subdivision
22 (b) of section twenty-six of this chapter to any debt, obligation or
23 liability incurred, created or assumed from the date of publication of
24 the proclamation through the date of the filing of the statement with
25 the department of state. If, after the publication of such proclamation,
26 it shall be determined by the department of state that the name of any
27 registered limited liability partnership was erroneously included in
28 such proclamation, the department of state shall make appropriate entry
29 on its records, which entry shall have the effect of annulling all of
30 the proceedings theretofore taken for the revocation of the registration
31 of such registered limited liability partnership under this subdivision
32 and (A) such registered limited liability partnership shall have such
33 powers, rights, duties and obligations as it had on the date of the
34 publication of the proclamation, with the same force and effect as if
35 such proclamation had not been made or published and (B) such publica-
36 tion shall not affect the applicability of the provisions of subdivision
37 (b) of section twenty-six of this chapter to any debt, obligation or
38 liability incurred, created or assumed from the date of publication of
39 the proclamation through the date of the making of the entry on the
40 records of the department of state. Whenever a registered limited
41 liability partnership whose registration was revoked shall have filed a
42 statement pursuant to this subdivision or if the name of a registered
43 limited liability partnership was erroneously included in a proclamation
44 and such proclamation was annulled, the department of state shall
45 publish a notice thereof in the state register.

46 § 13. Subdivision (d) of section 121-1502 of the partnership law, as
47 added by chapter 576 of the laws of 1994, is amended to read as follows:

48 (d) If a signed notice or other instrument delivered to the department
49 of state for filing complies as to form with the requirements of law and
50 the filing fee required by any statute of this state has been paid, the
51 ~~[notice]~~ instrument shall be filed and indexed by the department of
52 state. The instrument's date of filing shall be the date the instrument
53 was received by the department of state for filing. An instrument that
54 is determined by the department of state to be unacceptable for filing
55 shall be returned to the person filing the instrument with an explana-
56 tion of the reason for the refusal to file. If the filer returns the

corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing. If a foreign limited

liability partnership that is a New York registered foreign limited liability partnership dissolves, a foreign limited liability partnership which is the successor to such New York registered foreign limited liability partnership (i) shall not be required to file a new notice and shall be deemed to have filed the notice filed by the New York registered foreign limited liability partnership pursuant to subdivision (a) of this section, as well as any withdrawal notice filed pursuant to subdivision (e) of this section, any statement or certificate of consent filed pursuant to subdivision (f) of this section and any notice of amendment filed pursuant to subdivision (i) of this section and (ii) shall be bound by any revocation of status pursuant to subdivision (f) of this section and any annulment thereof of the dissolved foreign limited liability partnership that was a New York registered foreign limited liability partnership. For purposes of this section, a foreign limited liability partnership is a successor to a foreign limited liability partnership that was a New York registered foreign limited liability partnership if a majority of the total interests in the current profits of such successor foreign limited liability partnership are held by partners of the predecessor foreign limited liability partnership that was a New York registered foreign limited liability partnership who were partners of such predecessor partnership immediately prior to the dissolution of such predecessor partnership.

§ 14. 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, is amended to read as follows:

(I) Each New York registered foreign limited liability partnership shall, within sixty days prior to the fifth anniversary of the effective date of its notice and every five years thereafter, furnish a statement to the department of state setting forth:

(i) the name under which the New York registered foreign limited liability partnership is carrying on or conducting or transacting business or activities in this state, (ii) the address 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 shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is a foreign limited liability partnership. The statement shall be executed by one or more partners of the New York registered foreign limited liability partnership. ~~[The statement shall be accompanied by a fee of fifty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow New York registered foreign limited liability partnerships to provide the statement specified in this paragraph on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state 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 New York registered foreign limited liability partnership required to file the statement~~

~~specified in this paragraph 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 paragraph directly with the department of state. However, each New York registered foreign limited liability partnership required to file a statement under this section must continue to file a statement with the department of state as required by this section until the New York registered foreign limited liability partnership 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 New York registered foreign limited liability partnership shall continue to provide annually the statement specified in this paragraph on its filing fee payment form in lieu of filing the statement required by this paragraph directly with the department of state. The commissioner of taxation and finance shall deliver the completed statement specified in this paragraph to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the New York registered foreign limited liability partnership, department of state identification number for such New York registered foreign limited liability partnership, 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.]~~ No fee shall be collected for the filing of the statement. If a New York registered foreign limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such New York registered foreign limited liability partnership as shown in the last notice or statement or certificate of amendment filed by such New York registered foreign limited liability partnership, make a proclamation declaring the status of such New York registered foreign limited liability partnership to be revoked pursuant to this subdivision. ~~[This shall not apply to New York registered foreign limited liability partnerships that have filed a statement with the department of state through the department of taxation and finance.]~~ The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. Upon the publication of such proclamation in the manner aforesaid, the status of each New York registered foreign limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings. Any New York registered foreign limited liability partnership whose status was so revoked may file in the department of state a statement required by this subdivision. The filing of such statement shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) the New York registered foreign limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publi-

1 cation of the proclamation through the date of the filing of the state-
2 ment with the department of state. If, after the publication of such
3 proclamation, it shall be determined by the department of state that the
4 name of any New York registered foreign limited liability partnership
5 was erroneously included in such proclamation, the department of state
6 shall make appropriate entry on its records, which entry shall have the
7 effect of annulling all of the proceedings theretofore taken for the
8 revocation of the status of such New York registered foreign limited
9 liability partnership under this subdivision and (1) such New York
10 registered foreign limited liability partnership shall have such powers,
11 rights, duties and obligations as it had on the date of the publication
12 of the proclamation, with the same force and effect as if such proclama-
13 tion had not been made or published and (2) such publication shall not
14 affect the applicability of the laws of the jurisdiction governing the
15 agreement under which such New York registered foreign limited liability
16 partnership is operating (including laws governing the liability of
17 partners) to any debt, obligation or liability incurred, created or
18 assumed from the date of publication of the proclamation through the
19 date of the making of the entry on the records of the department of
20 state. Whenever a New York registered foreign limited liability partner-
21 ship whose status was revoked shall have filed a statement pursuant to
22 this subdivision or if the name of a New York registered foreign limited
23 liability partnership was erroneously included in a proclamation and
24 such proclamation was annulled, the department of state shall publish a
25 notice thereof in the state register.

26 § 15. Subdivision 5 of section 192 of the tax law is REPEALED.

27 § 16. Subdivision 5 of section 211 of the tax law is REPEALED.

28 § 17. Subparagraph (e) of paragraph 3 of subsection (c) of section 658
29 of the tax law is REPEALED.

30 § 18. Subsection (v) of section 1085 of the tax law is REPEALED.

31 § 19. Subsection (dd) of section 685 of the tax law is REPEALED.

32 § 20. This act shall become effective upon the development of a new
33 computerized filing system currently being developed by the department
34 of state; provided further, however, that the secretary of state shall
35 notify the legislative bill drafting commission upon the occurrence of
36 the development of a new computerized filing system being developed by
37 the department of state in order that the commission may maintain an
38 accurate and timely effective data base of the official text of the laws
39 of the state of New York in furtherance of effectuating the provisions
40 of section 44 of the legislative law and section 70-b of the public
41 officers law; and provided, however, sections two, three, four, six,
42 seven, eight, twelve, fourteen, fifteen, sixteen, seventeen, eighteen
43 and nineteen of this act shall take effect April 1, 2021.

44 PART Y

45 Section 1. Expenditures of moneys appropriated in a chapter of the
46 laws of 2020 to the department of agriculture and markets from the
47 special revenue funds-other/state operations, miscellaneous special
48 revenue fund-339, public service account shall be subject to the
49 provisions of this section. Notwithstanding any other provision of law
50 to the contrary, direct and indirect expenses relating to the department
51 of agriculture and markets' participation in general ratemaking
52 proceedings pursuant to section 65 of the public service law or certif-
53 ication proceedings pursuant to article 7 or 10 of the public service
54 law, shall be deemed expenses of the department of public service within

1 the meaning of section 18-a of the public service law. No later than
2 August 15, 2021, the commissioner of the department of agriculture and
3 markets shall submit an accounting of such expenses, including, but not
4 limited to, expenses in the 2020--2021 state fiscal year for personal
5 and non-personal services and fringe benefits, to the chair of the
6 public service commission for the chair's review pursuant to the
7 provisions of section 18-a of the public service law.

8 § 2. Expenditures of moneys appropriated in a chapter of the laws of
9 2020 to the department of state from the special revenue funds-
10 other/state operations, miscellaneous special revenue fund-339, public
11 service account shall be subject to the provisions of this section.
12 Notwithstanding any other provision of law to the contrary, direct and
13 indirect expenses relating to the activities of the department of
14 state's utility intervention unit pursuant to subdivision 4 of section
15 94-a of the executive law, including, but not limited to participation
16 in general ratemaking proceedings pursuant to section 65 of the public
17 service law or certification proceedings pursuant to article 7 or 10 of
18 the public service law, shall be deemed expenses of the department of
19 public service within the meaning of section 18-a of the public service
20 law. No later than August 15, 2021, the secretary of state shall submit
21 an accounting of such expenses, including, but not limited to, expenses
22 in the 2020--2021 state fiscal year for personal and non-personal
23 services and fringe benefits, to the chair of the public service commis-
24 sion for the chair's review pursuant to the provisions of section 18-a
25 of the public service law.

26 § 3. Expenditures of moneys appropriated in a chapter of the laws of
27 2020 to the office of parks, recreation and historic preservation from
28 the special revenue funds-other/state operations, miscellaneous special
29 revenue fund-339, public service account shall be subject to the
30 provisions of this section. Notwithstanding any other provision of law
31 to the contrary, direct and indirect expenses relating to the office of
32 parks, recreation and historic preservation's participation in general
33 ratemaking proceedings pursuant to section 65 of the public service law
34 or certification proceedings pursuant to article 7 or 10 of the public
35 service law, shall be deemed expenses of the department of public
36 service within the meaning of section 18-a of the public service law. No
37 later than August 15, 2021, the commissioner of the office of parks,
38 recreation and historic preservation shall submit an accounting of such
39 expenses, including, but not limited to, expenses in the 2020--2021
40 state fiscal year for personal and non-personal services and fringe
41 benefits, to the chair of the public service commission for the chair's
42 review pursuant to the provisions of section 18-a of the public service
43 law.

44 § 4. Expenditures of moneys appropriated in a chapter of the laws of
45 2020 to the department of environmental conservation from the special
46 revenue funds-other/state operations, environmental conservation special
47 revenue fund-301, utility environmental regulation account shall be
48 subject to the provisions of this section. Notwithstanding any other
49 provision of law to the contrary, direct and indirect expenses relating
50 to the department of environmental conservation's participation in state
51 energy policy proceedings, or certification proceedings pursuant to
52 article 7 or 10 of the public service law, shall be deemed expenses of
53 the department of public service within the meaning of section 18-a of
54 the public service law. No later than August 15, 2021, the commissioner
55 of the department of environmental conservation shall submit an account-
56 ing of such expenses, including, but not limited to, expenses in the

1 2020--2021 state fiscal year for personal and non-personal services and
2 fringe benefits, to the chair of the public service commission for the
3 chair's review pursuant to the provisions of section 18-a of the public
4 service law.

5 § 5. Notwithstanding any other law, rule or regulation to the contra-
6 ry, expenses of the department of health public service education
7 program incurred pursuant to appropriations from the cable television
8 account of the state miscellaneous special revenue funds shall be deemed
9 expenses of the department of public service. No later than August 15,
10 2021, the commissioner of the department of health shall submit an
11 accounting of expenses in the 2020--2021 state fiscal year to the chair
12 of the public service commission for the chair's review pursuant to the
13 provisions of section 217 of the public service law.

14 § 6. Any expense deemed to be expenses of the department of public
15 service pursuant to sections one through four of this act shall not be
16 recovered through assessments imposed upon telephone corporations as
17 defined in subdivision 17 of section 2 of the public service law.

18 § 7. This act shall take effect immediately and shall be deemed to
19 have been in full force and effect on and after April 1, 2020.

20 PART Z

21 Section 1. Section 25-a of the public service law, as added by section
22 2 of part X of chapter 57 of the laws of 2013, is amended to read as
23 follows:

24 § 25-a. Combination gas and electric corporations; administrative
25 sanctions; recovery of penalties. Notwithstanding sections twenty-four
26 and twenty-five of this article: 1. Every combination gas and electric
27 corporation and the officers thereof shall adhere to every provision of
28 this chapter and every order or regulation adopted under authority of
29 this chapter so long as the same shall be in force.

30 2. (a) The commission shall have the authority to assess a civil
31 penalty in an amount as set forth in this section and impose any other
32 required relief against a combination gas and electric corporation and
33 the officers thereof subject to the jurisdiction, supervision, or regu-
34 lation pursuant to this chapter [~~in an amount as set forth in this~~
35 ~~section~~]. In determining the amount of any penalty to be assessed pursu-
36 ant to this section, the commission shall consider: (i) the seriousness
37 of the violation for which a penalty is sought; (ii) the nature and
38 extent of any previous violations for which penalties have been assessed
39 against the corporation or officer; (iii) whether there was knowledge of
40 the violation; (iv) the gross revenues and financial status of the
41 corporation; and (v) such other factors as the commission may deem
42 appropriate and relevant. The remedies provided by this subdivision are
43 in addition to any other remedies provided in law or equity.

44 (b) [~~Whenever the commission has reason to believe that a combination~~
45 ~~gas and electric corporation or such officers thereof should be subject~~
46 ~~to imposition of a civil penalty as set forth in this subdivision, it~~
47 ~~shall notify such corporation or officer.~~] To inform the commission's
48 decision under this section, the department is authorized, pursuant to a
49 referral made by the chief executive officer of the department, to
50 commence a proceeding pursuant to this section upon issuance of a notice
51 of violation if it believes that a combination gas and electric corpo-
52 ration, or such officers thereof, may be subject to imposition of a
53 civil penalty as set forth in this subdivision and/or such other relief
54 as may be required to address such alleged violation. Such notice shall

1 include, but shall not be limited to: (i) the date and a brief
2 description of the facts and nature of each act or failure to act for
3 which such penalty is proposed; (ii) a list of each statute, regulation
4 or order that the ~~[commission]~~ department alleges has been violated;
5 ~~[and]~~ (iii) the amount of each penalty that the ~~[commission]~~ department
6 proposes ~~[to assess]~~ be assessed; and (iv) any proposed actions that the
7 department deems necessary to address such alleged violation or
8 violations. To further inform the commission's decision pursuant to this
9 subdivision, the department is authorized to undertake any additional
10 administrative or investigatory actions related to such violation or
11 violations, including but not limited to, service of an administrative
12 complaint, implementation of discovery, and the holding of evidentiary
13 hearings.

14 (c) ~~[Whenever the commission has reason to believe that a combination~~
15 ~~gas and electric corporation or such officers thereof should be subject~~
16 ~~to imposition of a civil penalty or penalties as set forth in this~~
17 ~~subdivision, the commission shall hold a hearing to demonstrate why the~~
18 ~~proposed penalty or penalties should be assessed against such combina-~~
19 ~~tion gas and electric corporation or such officers]~~ Any assessment of
20 penalties, resolution of claims or imposition of other relief levied by
21 the department pursuant to an investigation or compliant proceeding
22 commenced pursuant to paragraph (b) of this subdivision shall be subject
23 to review and approval by the commission.

24 3. Any combination gas and electric corporation determined by the
25 commission to have failed to ~~[reasonably]~~ comply, as shown by a prepon-
26 derance of the evidence, with a provision of this chapter, regulation or
27 an order adopted under authority of this chapter so long as the same
28 shall be in force shall forfeit a sum not exceeding the greater of one
29 hundred thousand dollars or two one-hundredths of one percent of the
30 annual intrastate gross operating revenue of the corporation, not
31 including taxes paid to and revenues collected on behalf of government
32 entities, constituting a civil penalty for each and every offense and,
33 in the case of a continuing violation, each day shall be deemed a sepa-
34 rate and distinct offense.

35 4. Notwithstanding the provisions of subdivision three of this
36 section, any such combination gas and electric corporation determined by
37 the commission to have failed to ~~[reasonably]~~ comply with a provision of
38 this chapter, or an order or regulation adopted under the authority of
39 this chapter specifically for the protection of human safety or
40 prevention of significant damage to real property, including, but not
41 limited to, the commission's code of gas safety regulations shall, if it
42 is determined by the commission by a preponderance of the evidence that
43 such safety violation caused or constituted a contributing factor in
44 bringing about: (a) a death or personal injury; or (b) damage to real
45 property in excess of fifty thousand dollars, forfeit a sum not to
46 exceed the greater of:

47 (i) two hundred fifty thousand dollars or three one-hundredths of one
48 percent of the annual intrastate gross operating revenue of the corpo-
49 ration, not including taxes paid to and revenues collected on behalf of
50 government entities, whichever is greater, constituting a civil penalty
51 for each separate and distinct offense; provided, however, that for
52 purposes of this paragraph, each day of a continuing violation shall not
53 be deemed a separate and distinct offense. The total period of a contin-
54 uing violation, as well as every distinct violation, shall be similarly
55 treated as a separate and distinct offense for purposes of this para-
56 graph; or

(ii) the maximum forfeiture determined in accordance with subdivision three of this section.

5. Notwithstanding the provisions of subdivision three or four of this section, a combination gas and electric corporation determined by the commission to have failed to [~~reasonably~~] comply by a preponderance of the evidence with a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, including but not limited to the restoration of electric service following a major outage event or emergency, shall forfeit a sum not to exceed the greater of:

(a) five hundred thousand dollars or four one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision three of this section.

6. Any officer of any combination gas and electric corporation determined by the commission to have violated the provisions of subdivision three, four, or five of this section, and who knowingly violates a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force shall forfeit a sum not to exceed one hundred thousand dollars constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.

7. [~~Any such assessment may be compromised or discontinued by the commission.~~] All moneys recovered pursuant to this section, together with the costs thereof, shall be remitted to, or for the benefit of, the ratepayers in a manner to be determined by the commission.

8. Upon a failure by a combination gas and electric corporation or officer to remit any penalty assessed by the commission pursuant to this section, the commission, through its counsel, may institute an action or special proceeding to collect the penalty in a court of competent jurisdiction.

9. Any payment made by a combination gas and electric corporation or the officers thereof as a result of an assessment as provided in this section, and the cost of litigation and investigation related to any such assessment, shall not be recoverable from ratepayers.

10. In construing and enforcing the provisions of this chapter relating to penalties, the act of any director, officer, agent or employee of a combined gas and electric corporation acting within the scope of his or her official duties or employment shall be deemed to be the act of such corporation.

11. It shall be a violation of this chapter should a director, officer or employee of a public utility company, corporation, person acting in his or her official duties or employment, or an agent acting on behalf of an employer take retaliatory personnel action such as discharge, suspension, demotion, penalization or discrimination against an employee for reporting a violation of a provision of this chapter [~~ef~~] or an order or regulation adopted under the authority of this chapter, including, but not limited to, those governing safe and adequate service,

1 protection of human safety or prevention of significant damage to real
2 property, including, but not limited to, the commission's code of gas
3 safety. Nothing in this subdivision shall be deemed to diminish the
4 rights, privileges or remedies of any employee under any other law or
5 regulation, including but not limited to article twenty-C of the labor
6 law and section seventy-five-b of the civil service law, or under any
7 collective bargaining agreement or employment contract.

8 § 2. The public service law is amended by adding a new section 25-b to
9 read as follows:

10 § 25-b. Administrative actions against other regulated entities.
11 Notwithstanding any other provision of this chapter, section twenty-
12 five-a of this article shall apply in equal force to: (1) an electric
13 corporation as defined in subdivision thirteen of section two of this
14 chapter; (2) a gas corporation as defined in subdivision eleven of
15 section two of this chapter; (3) a cable television company or cable
16 television system as defined in subdivisions one and two of section two
17 hundred twelve of this chapter; (4) a telephone corporation as defined
18 in subdivision seventeen of section two of this chapter; (5) a steam
19 corporation as defined in subdivision twenty-two of section two of this
20 chapter; and (6) a water-works corporation as defined in subdivision
21 twenty-seven of section two of this chapter.

22 § 3. This act shall take effect immediately.

23 PART AA

24 Section 1. The public service law is amended by adding a new article
25 12 to read as follows:

26 ARTICLE 12

27 PROVISIONS RELATING TO INTERNET SERVICE PROVIDERS

28 Section 250. Definitions.

29 251. Prohibitions.

30 252. Consumer notice of service practices.

31 253. Annual certification.

32 254. Administration and enforcement.

33 255. Severability.

34 § 250. Definitions. For purposes of this article, the following terms
35 shall have the following meanings:

36 1. "Application-agnostic" means not differentiating on the basis of
37 source, destination, internet content, application, service, or device,
38 or class of internet content, application, service, or device.

39 2. "Application-specific differential pricing" means charging differ-
40 ent prices for internet traffic to customers on the basis of internet
41 content, application, service, or device, or class of internet content,
42 application, service, or device, but shall not include zero-rating.

43 3. "Broadband internet access service" means a mass-market retail
44 service by wire or radio provided to customers in the state of New York
45 that provides the capability to transmit data to, and receive data from,
46 all or substantially all internet endpoints, including any capabilities
47 that are incidental to and enable the operation of the communications
48 service, but excluding dial-up internet access service. "Broadband
49 internet access service" shall also encompass any service provided to
50 customers in the state of New York that provides a functional equivalent
51 of such service or that is used to evade the protections set forth in
52 this chapter.

53 4. "Class of internet content, application, service, or device" means
54 internet content, or a group of internet applications, services, or

1 devices, sharing a common characteristic, including, but not limited to,
2 sharing the same source or destination, belonging to the same type of
3 content, application, service, or device, using the same application or
4 transport-layer protocol, or having similar technical characteristics,
5 including, but not limited to, the size, sequencing, or timing of pack-
6 ets or sensitivity to delay.

7 5. "Content, applications, or services" means all internet traffic
8 transmitted to or from end users of a broadband internet access service,
9 including traffic that may not fit clearly into any of these categories.

10 6. "Edge provider" means any individual or entity that provides any
11 content, application, or service over the internet, and any individual
12 or entity that provides a device used for accessing any content, appli-
13 cation, or service over the internet.

14 7. "End user" means any individual or entity that uses a broadband
15 internet access service.

16 8. "Internet service provider" or "ISP" means a business that provides
17 broadband internet access service to an individual, corporation, govern-
18 ment, or other customer in the state of New York.

19 9. "ISP traffic exchange" means the exchange of internet traffic
20 destined for, or originating from, an internet service provider's end
21 users between the internet service provider's network and another indi-
22 vidual or entity.

23 10. "Mass market" means a service marketed and sold on a standardized
24 basis to residential customers, small businesses, and other end-use
25 customers, including, but not limited to, schools, institutions of high-
26 er learning and libraries.

27 11. "Mobile broadband internet access" means a broadband internet
28 access service that serves end users primarily using mobile stations.

29 12. "Network management practice" means a practice that has a primari-
30 ly technical network management justification.

31 13. "Reasonable network management practice" means a network manage-
32 ment practice that is primarily used for, and tailored to, achieving a
33 legitimate network management purpose, taking into account the partic-
34 ular network architecture and technology of the broadband internet
35 access service.

36 14. "Third-party paid prioritization" means the management of an
37 internet service provider's network to directly or indirectly favor some
38 traffic over other traffic, including the use of techniques such as
39 traffic shaping, prioritization, resource reservation, or other forms of
40 preferential traffic management, either:

41 (a) in exchange for consideration, monetary or otherwise, from a third
42 party; or

43 (b) to benefit an affiliated entity.

44 15. "Zero-rating" means exempting some internet traffic from a custom-
45 er's data usage limitation.

46 § 251. Prohibitions. 1. Notwithstanding any inconsistent provisions of
47 this chapter, it shall be unlawful for an ISP, in providing broadband
48 internet access service in the state, to engage in any of the following
49 activities:

50 (a) Blocking lawful content, applications, services, or non-harmful
51 devices, subject to reasonable network management practices.

52 (b) Throttling, altering, restricting, interfering with, or otherwise
53 directly or indirectly favoring, disadvantaging, or discriminating
54 between lawful internet traffic on the basis of source, destination,
55 internet content, application, or service, or use of a non-harmful

1 device, or of class of internet content, application, service, or non-
2 harmful device, subject to reasonable network management practices.

3 (c) Engaging in third-party paid prioritization.

4 (d) Engaging in application-specific differential pricing or zero-rat-
5 ing in exchange for consideration, monetary or otherwise, by third
6 parties.

7 (e) Zero-rating some internet content, applications, services, or
8 devices in a category of internet content, applications, services, or
9 devices, but not the entire category.

10 (f) Engaging in application-specific differential pricing.

11 (g) Unreasonably interfering with, or unreasonably disadvantaging,
12 either an end user's ability to select, access, and use broadband inter-
13 net access service or lawful internet content, applications, services,
14 or devices of the end user's choice, subject to reasonable network
15 management practices.

16 (h) Engaging in practices with respect to, related to, or in
17 connection with ISP traffic exchange that has the purpose or effect of
18 circumventing or undermining the effectiveness of this section.

19 (i) Engaging in deceptive or misleading marketing practices that
20 misrepresent the treatment of internet traffic, content, applications,
21 service or devices by the internet service provider, or that misrepre-
22 sent the performance characteristics or commercial terms of the broad-
23 band internet access service to its customers.

24 (j) Advertising, offering for sale or selling broadband internet
25 access service without prominently disclosing with specificity all
26 aspects of the service advertised, offered for sale or sold.

27 (k) Failing to publicly disclose accurate information regarding the
28 network management practices, performance, and commercial terms of its
29 broadband internet access services sufficient for consumers to make
30 informed choices regarding use of those services and for content, appli-
31 cation, service and device providers to develop, market and maintain
32 internet offerings.

33 (l) Offering or providing services other than broadband internet
34 access service that are delivered over the same last-mile connection as
35 the broadband internet access service, if those services satisfy any of
36 the following conditions:

37 (i) such services are marketed, provide or can be used as a functional
38 equivalent of broadband internet access service;

39 (ii) such services have the purpose or effect of circumventing or
40 undermining the effectiveness of this section; or

41 (iii) such services negatively affect the performance of broadband
42 internet access service.

43 2. (a) An internet service provider may offer different types of tech-
44 nical treatment to end users as part of its broadband internet access
45 service, without violating the provisions of subdivision one of this
46 section, if all of the following conditions exist:

47 (i) the different types of technical treatment are equally available
48 to all internet content, applications, services and devices, and all
49 classes of internet content, applications, services and devices, and the
50 internet service provider does not discriminate in the provision of the
51 different types of technical treatment on the basis of internet content,
52 application, service or device, or class of internet content, applica-
53 tion, service or device;

54 (ii) the internet service provider's end users are able to choose
55 whether, when, and for which internet content, applications, services,

1 or devices, or classes of internet content, applications, services, or
2 devices, to use each type of technical treatment; and

3 (iii) the internet service provider charges only its own broadband
4 internet access service customers for the use of the different types of
5 technical treatment.

6 (b) Any internet service provider offering different types of techni-
7 cal treatment pursuant to this subdivision shall notify the department
8 and provide the department with a sample of any service contract that it
9 offers to customers in the state of New York.

10 3. An internet service provider may zero-rate internet traffic in
11 application-agnostic ways, without violating the provisions of subdivi-
12 sion one of this section, provided that no consideration, monetary or
13 otherwise, is provided by any third party in exchange for the provider's
14 decision to zero-rate or to not zero-rate traffic.

15 4. Nothing in this section prohibits an ISP from meeting an obligation
16 to address the needs of emergency communications or law enforcement,
17 public safety or national security authorities, consistent with or as
18 permitted by applicable law, or limits the ISP's ability to do so.

19 § 252. Consumer notice of service practices. An ISP providing broad-
20 band service in the state shall make publicly available an accurate
21 description of such ISP's network management practices, performance and
22 commercial terms of its broadband internet access service by posting
23 such description on an ISP controlled or maintained website, provided
24 that nothing in this section shall require ISPs to disclose confidential
25 business information or information that would compromise network secu-
26 rity.

27 § 253. Annual certification. Every ISP providing broadband service in
28 the state shall submit a certification to the department in a form and
29 manner specified by the commission, by July first, two thousand twenty-
30 one and annually thereafter. Such certification shall include, at a
31 minimum:

32 1. a statement indicating whether the ISP is in compliance with
33 sections two hundred fifty-one and two hundred fifty-two of this arti-
34 cle;

35 2. a description of such ISP's efforts in the preceding year to inform
36 end users of the provider's efforts to ensure net neutral service and
37 the address of the ISP's website where such information is provided; and

38 3. any other information required by rules promulgated by the depart-
39 ment and approved by the commission.

40 § 254. Administration and enforcement. 1. The commission shall be
41 authorized to promulgate any rules or regulations necessary to implement
42 the provisions of this article.

43 2. Violations of any duty imposed by this article shall be enforceable
44 by the commission. Any ISP that violates any provision of or fails to
45 perform any duty imposed pursuant to this article or any rule or regu-
46 lation promulgated pursuant thereto, or any final determination or order
47 of the commission made pursuant to this article shall be liable for a
48 civil penalty not to exceed five hundred dollars for each violation and
49 an additional penalty of not more than five hundred dollars for each day
50 during which such violation continues.

51 3. In addition to the authority granted to the commission pursuant to
52 this chapter, the attorney general may enforce the provisions of this
53 article to the extent permitted under section sixty-three of the execu-
54 tive law.

1 4. Nothing in this article shall preclude or prohibit any public or
2 private right of action relating to fraud or deceptive business prac-
3 tices.

4 § 255. Severability. The provisions of this article shall be severable
5 and if any phrase, clause, sentence or provision of this article, or the
6 applicability thereof to any person or circumstance shall be held inval-
7 id, the remainder of this article and the application thereof shall not
8 be affected thereby.

9 § 2. The state finance law is amended by adding a new section 169 to
10 read as follows:

11 § 169. Net neutrality. Each state agency shall enter into contracts
12 with only those internet service providers that have, by July first, two
13 thousand twenty-one, certified pursuant to section two hundred fifty-
14 three of the public service law that they are in compliance with
15 sections two hundred fifty-one and two hundred fifty-two of the public
16 service law. Each contract for internet services provided to a state
17 agency shall specifically require certification pursuant to section two
18 hundred fifty-three of the public service law and state that the inter-
19 net service provider may not block lawful content, applications,
20 services, non-harmful devices or applications that compete with other
21 services provided by such internet service provider. Any contract or
22 contract renewal entered into by a state agency shall include a binding
23 agreement consistent with the foregoing provisions, and no state agency
24 shall enter into a contract with an internet service provider, an agent
25 therefor or other entity offering to or procuring on behalf of the state
26 agency internet services unless such contract contains such a binding
27 agreement.

28 § 3. Subdivision 9 of section 160 of the state finance law, as amended
29 by chapter 106 of the laws of 2012, is amended to read as follows:

30 9. "State agency" or "state agencies" means all state departments,
31 boards, commissions, offices or institutions but excludes, however, for
32 the purposes of subdivision five of section three hundred fifty-five of
33 the education law, the state university of New York and excludes, for
34 the purposes of subdivision a of section sixty-two hundred eighteen of
35 the education law, the city university of New York; provided, however,
36 that the state university of New York and the city university of New
37 York shall be subject to the provisions of section one hundred sixty-
38 five-a and section one hundred sixty-nine of this article. Furthermore,
39 such term shall not include the legislature or the judiciary.

40 § 4. The public authorities law is amended by adding a new section
41 2878-c to read as follows:

42 § 2878-c. Net neutrality. After July first, two thousand twenty-one,
43 each state agency shall enter into contracts with only those internet
44 service providers that have, by such date, certified pursuant to section
45 two hundred fifty-three of the public service law that they are in
46 compliance with sections two hundred fifty-one and two hundred fifty-two
47 of the public service law. Each contract for internet services provided
48 to a state agency shall specifically require certification pursuant to
49 section two hundred fifty-three of the public service law and state that
50 the internet service provider may not block lawful content, applica-
51 tions, services, non-harmful devices or applications that compete with
52 other services provided by such internet service provider. Any contract
53 or contract renewal entered into by a state authority shall include a
54 binding agreement consistent with the foregoing provisions, and no state
55 authority shall enter into a contract with an internet service provider,
56 an agent therefor or other entity offering to or procuring on behalf of

1 the state authority internet services unless such contract contains such
2 a binding agreement.

3 § 5. Section 349 of the general business law is amended by adding a
4 new subdivision (k) to read as follows:

5 (k) In addition to the right of action granted to the attorney general
6 pursuant to this section, any person who has been injured by reason of
7 any violation of this section in relation to obligations imposed by
8 section two hundred fifty-one of the public service law may bring an
9 action to enjoin such unlawful act or practice, an action to recover
10 actual damages or five hundred dollars, whichever is greater, or both
11 such actions. The court may, in its discretion, increase the award of
12 damages to an amount not to exceed three times the actual damages if the
13 court finds the defendant willfully or knowingly violated this section.
14 The court may award reasonable attorneys' fees to a prevailing plain-
15 tiff.

16 § 6. This act shall take effect immediately.

17 PART BB

18 Section 1. The general municipal law is amended by adding a new arti-
19 cle 13-E to read as follows:

20 ARTICLE 13-E

21 SMALL WIRELESS FACILITIES DEPLOYMENT

22 Section 300. Definitions.

23 301. Use of right of way for small wireless facilities and util-
24 ity poles.

25 302. Permitting process for small wireless facilities.

26 303. Access to municipal corporation poles within the right of
27 way.

28 304. Rates and fees.

29 305. Cable services.

30 306. Local authority.

31 307. Investor-owned electric utility poles.

32 308. Implementation.

33 309. Dispute resolution.

34 310. Indemnification, insurance, and bonding.

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

38 1. "Antenna" means communications equipment that transmits or receives
39 electromagnetic radio frequency signals used in the provision of wire-
40 less services.

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

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

47 4. "Application" means a request submitted by an applicant to a munic-
48 ipal corporation for a permit to collocate small wireless facilities; or
49 to approve the installation or modification of a utility pole or wire-
50 less support structure.

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

1 6. "Pole" means a utility pole owned, managed or operated by or on
2 behalf of a municipal corporation.

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

7 8. "Communications facility" means the set of equipment and network
8 components, including wires, cables, and associated facilities used by a
9 cable operator, as defined in 47 U.S.C. Section 522(5); a telecommuni-
10 cations carrier, as defined in 47 U.S.C. Section 153(51); a provider of
11 information service, as defined in 47 U.S.C. Section 153(24); a wireless
12 services provider to provide communications services, including cable
13 service, as defined in 47 U.S.C. Section 522(6); telecommunications
14 service, as defined in 47 U.S.C. Section 153(53); an information
15 service, as defined in 47 U.S.C. Section 153(24); wireless service; or
16 other one-way or two-way communications service.

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

21 10. "Decorative pole" means a pole that is specially designed and
22 placed for aesthetic purposes and on which no appurtenances or attach-
23 ments, other than a small wireless facility, lighting, specially
24 designed informational or directional signage, or temporary holiday or
25 special event attachments, have been placed or are permitted to be
26 placed according to nondiscriminatory municipal rules or codes.

27 11. "FCC" means the Federal Communications Commission of the United
28 States.

29 12. "Fee" means a one-time, nonrecurring charge.

30 13. "Historic district" means a group of buildings, properties, or
31 sites that are either: (a) listed in the National Register of Historic
32 Places or formally determined eligible for listing by the Keeper of the
33 National Register, in accordance with Section VI.D.1.a.i-v of the
34 Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix
35 C; or (b) a registered historic district as defined in section ninety-
36 six-a of this chapter or article five-K of this chapter as of the effec-
37 tive date of this section.

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

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

45 16. "Network interface device" means the telecommunications demarca-
46 tion and test point separating the wireless facility and the wireline
47 backhaul facility.

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

52 18. "Person" means an individual, corporation, limited liability
53 company, partnership, association, trust, or other entity or organiza-
54 tion, including a municipal corporation.

55 19. "Rate" means a recurring charge.

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

4 21. "Small wireless facility" means a wireless facility that meets
5 both of the following qualifications: (a) each wireless provider's
6 antenna could fit within an enclosure of no more than six cubic feet in
7 volume; and (b) all other wireless equipment associated with the wire-
8 less facility, whether ground or aerially mounted or attached to a util-
9 ity pole or wireless support structure, is cumulatively no more than
10 twenty-eight cubic feet in volume. The following types of associated
11 ancillary equipment are not included in the calculation of equipment
12 volume: electric meter, concealment elements, network interface device,
13 grounding equipment, power transfer switch, cut-off switch, converters,
14 amplifiers, splice cases, and vertical cable runs for the connection of
15 power and other services.

16 22. "Technically feasible" means that by virtue of engineering or
17 spectrum usage the proposed placement for a small wireless facility, or
18 its design, concealment measures, or site location can be implemented
19 without a reduction in the functionality of the small wireless facility.

20 23. "Utility pole" means a pole or similar structure that is or may be
21 used in whole or in part or for wireline communications, electric
22 distribution, lighting, traffic control, signage, or a similar function,
23 or for the collocation of small wireless facilities; provided, however,
24 such term shall not include wireless support structures or electric
25 transmission structures.

26 24. "Wireless facility" means equipment at a fixed location that
27 enables wireless services between user equipment and a communications
28 network, including: (a) equipment associated with wireless communi-
29 cations; (b) radio transceivers; (c) antennas; (d) coaxial or fiber-op-
30 tic cable located on a utility pole or wireless support structure, imme-
31 diately adjacent to the utility pole or wireless support structure, or
32 directly associated with equipment located on the utility pole or wire-
33 less support structure; and (e) regular and backup power supplies and
34 rectifiers; and comparable equipment, regardless of technological
35 configuration. The term includes small wireless facilities, but does not
36 include: (i) the structure or improvements on, under, or within which
37 the equipment is collocated; (ii) wireline backhaul facilities; or (iii)
38 coaxial or fiber-optic cable that is between wireless structures or
39 utility poles or that is otherwise not immediately adjacent to or
40 directly associated with a particular antenna.

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

46 26. "Wireless provider" means a wireless infrastructure provider or a
47 wireless services provider.

48 27. "Wireless services" means any services using licensed or unli-
49 censed spectrum including the use of Wi-Fi, whether at a fixed location
50 or mobile, provided to the public.

51 28. "Wireless services provider" means any person or entity that
52 provides wireless services.

53 29. "Wireless support structure" means a structure, such as a mono-
54 pole; tower, either guyed or self-supporting; billboard; building; or
55 other existing or proposed structure designed to support or capable of
56 supporting wireless facilities, other than a structure designed solely

1 for the collocation of small wireless facilities. Such term shall not
2 include a utility pole.

3 30. "Wireline backhaul facility" means an above-ground or underground
4 wireline facility used to transport communications data from a wireless
5 facility network interface device to a network.

6 § 301. Use of right of way for small wireless facilities and utility
7 poles. 1. Applicability. This section shall only apply to the activ-
8 ities of a wireless provider within the right of way to deploy small
9 wireless facilities and associated utility poles.

10 2. Exclusive use prohibited. A municipal corporation may not enter
11 into an exclusive arrangement with any person for use of the right of
12 way for the collocation of small wireless facilities or for the instal-
13 lation, operation, marketing, modification, maintenance or replacement
14 of utility poles.

15 3. Right of way rates and fees. A municipal corporation may only
16 charge a wireless provider a rate or fee for the use of the ROW with
17 respect to the collocation of small wireless facilities or the installa-
18 tion, maintenance, modification, operation, or replacement of a utility
19 pole in the right of way if the municipal corporation charges other
20 entities for use of the right of way. Notwithstanding the foregoing, a
21 municipal corporation is permitted, on a nondiscriminatory basis, to
22 refrain from charging any rate to a wireless provider for the use of the
23 right of way. The rate for use of the right of way is provided in
24 section three hundred four of this article.

25 4. Right of access. Subject to this section, a wireless provider shall
26 have the right, as a permitted use not subject to zoning review or
27 approval, to collocate small wireless facilities and to install, main-
28 tain, modify, operate and replace utility poles along, across, upon, and
29 under the right of way. Such structures and facilities shall be so
30 installed and maintained as not to obstruct or hinder the usual travel
31 or public safety on such right of way or obstruct the legal use of such
32 right of way by utilities.

33 5. Height limits. Each new or modified utility pole installed in the
34 right of way shall not exceed the greater of: (a) ten feet in height
35 above the tallest existing utility pole in place as of the effective
36 date of this article located within five hundred feet of the new pole in
37 the same municipal corporation's right of way; or (b) fifty feet above
38 ground level. New small wireless facilities in the right of way may not
39 extend: (i) more than ten feet above an existing utility pole in place
40 as of the effective date of this article; or (ii) for small wireless
41 facilities on a new utility pole, above the height permitted for a new
42 utility pole under this section. A wireless provider shall have the
43 right to collocate a small wireless facility and install, maintain,
44 modify, operate and replace a utility pole that exceeds these height
45 limits along, across, upon and under the right of way, subject to this
46 section and applicable zoning regulations.

47 6. Decorative poles. A wireless provider shall be permitted to collo-
48 cate on or replace decorative poles when necessary to deploy a small
49 wireless facility. A municipal corporation may require such collocation
50 or decorative pole replacement to reasonably conform to the design
51 aesthetics of the original decorative pole or poles, provided such
52 requirements are technically feasible.

53 7. Underground district. (a) A wireless provider shall comply with
54 written, objective, reasonable and nondiscriminatory requirements that
55 prohibit the installation of utility poles or wireless support struc-
56 tures in the right of way in an area designated solely for underground

1 communications and electric lines where: (i) the municipal corporation
2 has required all such lines to be placed underground no less than three
3 months prior to the submission of the application; (ii) utility poles
4 the municipal corporation allows to remain shall be made available to
5 wireless providers for the collocation of small wireless facilities, and
6 may be replaced by a wireless provider to accommodate the collocation of
7 small wireless facilities, in compliance with this article; and (iii) a
8 wireless provider may install a new utility pole in the designated area
9 that otherwise complies with this section when it is not able to provide
10 wireless service by collocating on a remaining utility pole or wireless
11 support structure.

12 (b) For small wireless facilities installed before a municipal corpo-
13 ration adopts requirements that communications and electric lines be
14 placed underground, such municipal corporation adopting such require-
15 ments shall: (i) permit a wireless provider to maintain the small wire-
16 less facilities in place subject to any applicable pole attachment
17 agreement with the utility pole owner; or (ii) permit the wireless
18 provider to replace the associated utility pole within fifty feet of the
19 prior location.

20 8. Historic district. Subject to subdivision four of section three
21 hundred two of this article, a municipal corporation may require writ-
22 ten, objective, reasonable, technically feasible, nondiscriminatory and
23 technologically neutral design or concealment measures in a historic
24 district. No such design or concealment measures may have the effect of
25 materially inhibiting any provider's technology or service; nor may any
26 such measures be considered a part of the small wireless facility for
27 purposes of the size restrictions in the definition of small wireless
28 facility.

29 9. No discrimination. The municipal corporation, in the exercise of
30 its administration and regulation related to the management of the right
31 of way, must be competitively neutral with regard to other users of the
32 right of way. The municipal corporation's right of way regulations may
33 not be unreasonable or discriminatory and may not violate any applicable
34 law.

35 10. Damage and repair. The municipal corporation may require a wire-
36 less provider to repair all damage to the right of way directly caused
37 by the activities of the wireless provider in the right of way and to
38 return the right of way to its functional equivalence before the damage
39 pursuant to the competitively neutral, reasonable requirements and spec-
40 ifications of the municipal corporation. If the wireless provider fails
41 to make the repairs reasonably required by the municipal corporation
42 within a reasonable time after written notice, the municipal corporation
43 may affect those repairs and charge the applicable party the reasonable,
44 documented actual cost of such repairs.

45 11. Pole replacements and modifications. A wireless provider shall not
46 be required to replace or upgrade an existing utility pole except for
47 reasons of structural necessity or compliance with applicable codes. A
48 wireless provider may, with the permission of the pole owner, replace or
49 modify existing utility poles, but any such replacement or modification
50 shall be consistent with the design aesthetics of the utility pole or
51 poles being modified or replaced.

52 12. Permitted use. New, modified or replacement utility poles associ-
53 ated with a small wireless facility that meet the requirements of this
54 section are permitted uses subject to the permit process in subdivision
55 four of section three hundred two of this article and are not subject to
56 zoning review or approval.

13. Abandonment. A wireless provider is required to notify the municipal corporation at least thirty days before its abandonment of a small wireless facility. Following receipt of such notice, the municipal corporation shall direct the wireless provider to remove all or any portion of the small wireless facility that the municipal corporation determines would be in the best interest of the public safety and public welfare to remove. If the wireless provider fails to remove the abandoned facility within ninety days after such notice, the municipal corporation may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns.

§ 302. Permitting process for small wireless facilities. 1. Applicability. This section shall apply to the permitting of the collocation of small wireless facilities by a wireless provider in or outside the right of way as specified in subdivision three of this section and to the permitting of the installation, modification, and replacement of associated utility poles by a wireless provider inside the right of way.

2. General. Except as provided in this article, a municipal corporation may not prohibit, regulate, or charge for the collocation of small wireless facilities that may be permitted in this section.

3. Zoning. Small wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they are collocated in the right of way in any zone.

4. Permits. A municipal corporation may require an applicant to obtain one or more permits to collocate a small wireless facility or to install a new, modified or replacement utility pole associated with a small wireless facility as provided in subdivision four of section three hundred one of this article, provided such permits are of general applicability and do not apply exclusively to wireless facilities. A municipal corporation shall receive applications for, process, and issue such permits subject to the following requirements:

(a) a municipal corporation may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the municipal corporation including, but not limited to, reserving fiber, conduit, or pole space for the municipal corporation;

(b) an applicant shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria in paragraph (g) of this subdivision;

(c) a municipal corporation may not require the collocation of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole; the use of specific pole types or configurations when installing new or replacement poles; or the underground placements of small wireless facilities that are or are designated in an application to be pole-mounted or ground-mounted;

(d) a municipal corporation may not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements from existing small wireless facilities, utility poles, or other structures;

(e) a municipal corporation may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the municipal corporation applicant agree to

1 extend this period or delay is caused by lack of commercial power or
2 communications transport facilities to the site;

3 (f) within ten days of receipt of an application, a municipal corpo-
4 ration must determine and notify the applicant in writing whether the
5 application is complete. If an application is deemed incomplete, the
6 municipal corporation must specifically identify the missing information
7 in writing. The processing deadline in paragraph (g) of this subdivision
8 is tolled from the time the authority sends the notice of incompleteness
9 to the time the applicant provides the missing information. Such proc-
10 essing deadline may also be tolled upon agreement of the applicant and
11 the municipal corporation;

12 (g) municipal corporations shall process applications on a nondiscri-
13 minatory basis and such applications shall be deemed approved if the
14 municipal corporation fails to approve or deny the application within
15 sixty days of receipt of the application;

16 (h) a municipal corporation may deny a proposed collocation of a small
17 wireless facility or installation, modification or replacement of a
18 utility pole that meets the requirements of subdivision five of section
19 three hundred one of this article only if the proposed application: (i)
20 materially interferes with the safe operation of traffic control equip-
21 ment; (ii) materially interferes with sight lines or clear zones for
22 transportation or pedestrians; (iii) materially interferes with compli-
23 ance with the Americans with Disabilities Act or similar federal or
24 state standards regarding pedestrian access or movement; (iv) fails to
25 comply with reasonable and nondiscriminatory horizontal spacing require-
26 ments of general application adopted by ordinance that concern the
27 location of ground-mounted equipment and new utility poles. Such spacing
28 requirements shall not prevent a wireless provider from serving any
29 location; (v) designates the location of a new utility pole for the
30 purpose of collocating a small wireless facility within seven feet in
31 any direction of an electrical conductor, unless the wireless provider
32 obtains the written consent of the power supplier that owns or manages
33 the electrical conductor; (vi) fails to comply with applicable codes; or
34 (vii) fails to comply with subdivision six, seven or eight of section
35 three hundred one of this article;

36 (i) the municipal corporation must document the basis for a denial,
37 including the specific code provisions on which the denial was based,
38 and send the documentation to the applicant on the day the authority
39 denies an application. The applicant may cure the deficiencies identi-
40 fied by the municipal corporation and resubmit the application within
41 thirty days of the denial without paying an additional application fee.
42 The municipal corporation shall approve or deny the revised application
43 within thirty days of resubmission and limit its review to the deficien-
44 cies cited in the denial. Any application not acted upon within thirty
45 days of resubmission shall be deemed approved;

46 (j) an applicant seeking to collocate small wireless facilities within
47 the jurisdiction of a single municipal corporation shall be allowed at
48 the applicant's discretion to file a consolidated application for up to
49 thirty small wireless facilities and receive a single permit for the
50 collocation of multiple small wireless facilities; provided, however,
51 the denial of one or more small wireless facilities in a consolidated
52 application shall not delay processing of any other small wireless
53 facilities in the same consolidated application. Solely for purposes of
54 calculating the number of small wireless facilities in a consolidated
55 application, a small wireless facility includes any utility pole on
56 which such small wireless facility will be collocated;

1 (k) installation or collocation for which a permit is granted pursuant
2 to this section shall be completed within one year after the permit
3 issuance date unless the municipal corporation and the applicant agree
4 to extend this period or a delay is caused by the lack of commercial
5 power or communications facilities at the site. Approval of an applica-
6 tion authorizes the applicant to: (i) undertake the installation or
7 collocation; and (ii) subject to applicable relocation requirements and
8 the applicant's right to terminate at any time, operate and maintain the
9 small wireless facilities and any associated utility pole covered by the
10 permit for a period of not less than ten years, which must be renewed
11 for equivalent durations so long as they are in compliance with the
12 criteria set forth in paragraph (g) of this subdivision;

13 (l) no municipal corporation may institute, either expressly or de
14 facto, a moratorium on: (i) filing, receiving, or processing applica-
15 tions; or (ii) issuing permits or other approvals, if any, for the
16 collocation of small wireless facilities or the installation, modifica-
17 tion, or replacement of utility poles to support small wireless facili-
18 ties; and

19 (m) the approval of the installation, placement, or maintenance of a
20 small wireless facility pursuant to this section does not authorize the
21 installation, placement, maintenance, or operation of any other communi-
22 cations facility, including a wireline backhaul facility, in a right of
23 way.

24 5. When applications not required. A municipal corporation shall not
25 require an application for routine maintenance, the replacement of small
26 wireless facilities with small wireless facilities that are substantial-
27 ly similar or the same size or smaller, or the installation, placement,
28 maintenance, operation, or replacement of micro wireless facilities that
29 are suspended on cables that are strung between existing utility poles,
30 in compliance with the applicable codes. A municipal corporation may,
31 however, require a permit for work that requires excavation or closure
32 of sidewalks or vehicular lanes within the ROW for such activities. Such
33 a permit must be issued to the applicant on a non-discriminatory basis
34 upon terms and conditions applied to any other person's activities in
35 the right of way that require excavation, closing of sidewalks, or
36 vehicular lanes.

37 § 303. Access to municipal corporation poles within the right of way.
38 1. Applicability. This section shall apply to activities of the wireless
39 provider within the right of way.

40 2. Exclusive use prohibited. A person owning, managing, or controlling
41 municipal corporation poles in the right of way may not enter into an
42 exclusive arrangement with any person for the right to attach to such
43 poles. A person who purchases or otherwise acquires a municipal corpo-
44 ration pole is subject to the requirements of this section.

45 3. Allowances. A municipal corporation shall allow the collocation of
46 small wireless facilities on municipal corporation poles on nondiscrimi-
47 natory terms and conditions using the process in section three hundred
48 three of this article.

49 4. Rates. (a) The rates to collocate on municipal corporation poles
50 shall be nondiscriminatory regardless of the services provided by the
51 collocating wireless provider.

52 (b) The rate to collocate on municipal corporation poles is provided
53 in section three hundred four of this article.

54 5. Implementation, make-ready work. (a) The rates, fees, and terms and
55 conditions for the make-ready work to collocate on a municipal corpo-

1 ration pole must be nondiscriminatory, competitively neutral, and
2 commercially reasonable and must comply with this article.

3 (b) The municipal corporation shall provide a good faith estimate for
4 any make-ready work necessary to enable the pole to support the
5 requested collocation by a wireless provider, including pole replacement
6 if necessary, within sixty days after receipt of a complete application.
7 Make-ready work, including any pole replacement, shall be completed
8 within sixty days of written acceptance of the good faith estimate by
9 the applicant. A municipal corporation may require replacement of the
10 municipal corporation's pole only if it demonstrates that the collocation
11 would make such pole structurally unsound.

12 (c) The person owning, managing, or controlling the municipal corporation's
13 pole shall not require more make-ready work than required to
14 meet applicable codes or industry standards. Fees for make-ready work
15 shall not include costs related to pre-existing or prior damage or
16 noncompliance. Fees for make-ready work, including any pole replacement,
17 shall not exceed either actual costs or the amount charged to other
18 communications service providers for similar work and shall not include
19 any revenue or contingency-based consultant's fees or expenses of any
20 kind.

21 § 304. Rates and fees. 1. Applicability. This section shall govern a
22 municipal corporation's rates and fees for the placement of a small
23 wireless facility or associated utility pole.

24 2. Permissible rates and fees. A municipal corporation may not require
25 a wireless provider to pay any rates, fees, or compensation to the
26 municipal corporation or other person other than what is expressly
27 authorized by this article for the right to use or occupy a right of
28 way, for collocation of small wireless facilities on utility poles in
29 the right of way, or for the installation, maintenance, modification,
30 operation and replacement of utility poles in the right of way.

31 3. Application fees. A municipal corporation may charge an application
32 fee, so long as such fee is reasonable, nondiscriminatory, and recovers
33 no more than an authority's direct costs for processing an application;
34 provided however, no such fee shall exceed the following: (a) five
35 hundred dollars for the first five small wireless facilities on the same
36 application and one hundred dollars for each additional small wireless
37 facility on the same application; and (b) one thousand dollars for the
38 installation, modification or replacement of a utility pole together
39 with the collocation of an associated small wireless facility that are
40 permitted uses in accordance with the specifications set forth in subdivision
41 four of section three hundred two of this article.

42 4. Rates. (a) Right of way: a municipal corporation may charge for the
43 occupancy and use of the right of way, so long as such rate is reasonable,
44 nondiscriminatory, and does not exceed the greater of the authority's
45 direct costs or twenty dollars per year per small wireless facility.
46 ty.

47 (b) Municipal corporation pole collocation rate: a municipal corporation
48 may charge for collocation of a small wireless facility on a
49 municipal corporation pole, so long as such rate is reasonable, nondiscriminatory,
50 and does not exceed the greater of authority's direct costs
51 or two hundred fifty dollars per municipal corporation pole per year.

52 5. Rate or fee adjustment. Should a municipal corporation have an
53 existing rate or fee to construct, install, mount, maintain, modify,
54 operate, or replace a wireless facility or wireless support structure in
55 the right of way, including collocation in such right of way, controlled
56 by the municipal corporation and such rate or fee does not comply with

1 the requirements in this article, not later than the end of the next
2 fiscal year immediately succeeding the effective date of this article,
3 the municipal corporation shall implement a revised rate or fee to
4 ensure compliance with this article for all affected persons.

5 § 305. Cable services. This section applies to activities in the right
6 of way only. Nothing in this article shall be interpreted to allow any
7 entity to provide services regulated under 47 U.S.C. § 521 to 573 with-
8 out compliance with all laws applicable to such providers, nor shall
9 this article be interpreted to impose any new requirements on cable
10 providers for the provision of such service in this state.

11 § 306. Local authority. Subject to this article and applicable federal
12 law, a municipal corporation may continue to exercise zoning, land use,
13 planning and permitting authority within its territorial boundaries with
14 respect to wireless support structures and utility poles, including the
15 enforcement of applicable codes. A municipal corporation shall not have
16 or exercise any jurisdiction or authority over the design, engineering,
17 construction, installation, or operation of a small wireless facility
18 located in an interior structure or upon the site of a campus, stadium,
19 or athletic facility not owned or controlled by the municipal corpo-
20 ration, other than to require compliance with applicable codes. Nothing
21 in this article authorizes the state or any political subdivision,
22 including a municipal corporation, to require wireless facility deploy-
23 ment or to regulate wireless services.

24 § 307. Investor-owned electric utility poles. This article does not
25 apply to utility poles owned by an investor-owned utility, except as it
26 concerns a wireless provider's access to the right of way and permits
27 for the collocation of small wireless facilities on such utility poles.

28 § 308. Implementation. 1. Adoption. A municipal corporation may adopt
29 an ordinance that makes available to wireless providers rates, fees, and
30 other terms that comply with this article. Subject to the other
31 provisions of this section, in the absence of an ordinance or agreement
32 that fully complies with this article and until such a compliant ordi-
33 nance is adopted, if at all, a wireless provider may install and operate
34 small wireless facilities and associated utility poles under the
35 requirements of this article. A municipal corporation may not require a
36 wireless provider to enter into an agreement to implement this article,
37 but such agreements are permissible if voluntary and nondiscriminatory.

38 2. Ordinances and agreements. Ordinances and agreements implementing
39 this article are public/private arrangements and are matters of legiti-
40 mate and significant statewide concern.

41 3. Application. An agreement or ordinance that does not fully comply
42 with this article shall apply only to small wireless facilities and
43 associated utility poles that were operational before the effective date
44 of this article, and shall be deemed invalid and unenforceable beginning
45 on the one hundred eighty-first day after the effective date of this
46 article unless amended to fully comply with this article. If an agree-
47 ment or ordinance is invalid in accordance with this subdivision, small
48 wireless facilities and associated utility poles that became operational
49 before the effective date of this article, pursuant to such agreement or
50 ordinance, may remain installed and be operated under the requirements
51 of this article.

52 4. Invalid and unenforceable. An agreement or ordinance that applies
53 to small wireless facilities and associated utility poles that become
54 operational on or after the effective date of this article is invalid
55 and unenforceable unless it fully complies with this article. In the
56 absence of an ordinance or agreement that fully complies with this arti-

1 cle, a wireless provider may install and operate small wireless facili-
2 ties and associated utility poles in the right of way under the require-
3 ments of this article.

4 § 309. Dispute resolution. A court of competent jurisdiction shall
5 have jurisdiction to determine all disputes arising under this article.
6 Pending resolution of a dispute concerning rates for collocation of
7 small wireless facilities on municipal corporation poles, the person
8 owning or controlling the pole shall allow the collocating person to
9 collocate on its poles at annual rates of no more than twenty dollars
10 with rates to be trued up upon final resolution of the dispute.

11 § 310. Indemnification, insurance, and bonding. A municipal corpo-
12 ration may adopt reasonable indemnification, insurance and bonding
13 requirements related to small wireless facility and associated utility
14 pole permits subject to the requirements of this article.

15 1. Indemnification. A municipal corporation shall not require a wire-
16 less provider to indemnify and hold the municipal corporation and its
17 officers and employees harmless against any claims, lawsuits, judgments,
18 costs, liens, losses, expenses or fees, except when a court of competent
19 jurisdiction has found that the negligence of the wireless provider
20 while installing, repairing, or maintaining caused the harm that created
21 such claims, lawsuits, judgments, costs, liens, losses, expenses, or
22 fees.

23 2. Insurance. A municipal corporation authority may require a wireless
24 provider to have in effect insurance coverage consistent with subdivi-
25 sion one of this section, so long as the municipal corporation imposes
26 similar requirements on other right of way users and such requirements
27 are reasonable and nondiscriminatory. (a) A municipal corporation may
28 not require a wireless provider to obtain insurance naming the municipal
29 corporation or its officers and employees an additional insured.

30 (b) A municipal corporation authority may require a wireless provider
31 to furnish proof of insurance, if required, prior to the effective date
32 of any permit issued for a small wireless facility.

33 3. Bonding. A municipal corporation may adopt bonding requirements for
34 small wireless facilities if the municipal corporation imposes similar
35 requirements in connection with permits issued for other right of way
36 users.

37 (a) The purpose of such bonds shall be to:

38 (i) provide for the removal of abandoned or improperly maintained
39 small wireless facilities, including those that a municipal corporation
40 determines need to be removed to protect public health, safety, or
41 welfare; (ii) restoration of the right of way in connection with
42 removals under subdivision thirteen of section three hundred one of this
43 article; or (iii) to recoup rates or fees that have not been paid by a
44 wireless provider in over twelve months, so long as the wireless provid-
45 er has received reasonable notice from the municipal corporation of any
46 of the non-compliance listed above and an opportunity to cure.

47 (b) Bonding requirements may not exceed two hundred dollars per small
48 wireless facility. For wireless providers with multiple small wireless
49 facilities within the jurisdiction of a single municipal corporation,
50 the total bond amount across all facilities may not exceed ten thousand
51 dollars, which amount may be combined into one bond instrument.

52 § 2. The highway law is amended by adding a new section 24 to read as
53 follows:

54 24. Statewide master license agreement. The commissioner is hereby
55 authorized to enter into a statewide master license agreement with a
56 wireless provider for use and occupancy of the state right of way for

1 the purposes of installing communications facilities on utility or
2 department owned poles or new wireless provider owned poles. The commis-
3 sioner shall include elements in such an agreement he or she deems
4 appropriate to maintain the safety and effective management of state
5 roadways. Such statewide agreement may include a fee, not to exceed the
6 greater of the department's direct costs, or an amount set forth in the
7 agreement for use and occupancy of the right of way, per small wireless
8 facility as that term is defined in subdivision twenty-four of section
9 three hundred of the general municipal law. Nothing in this section
10 shall be deemed to prohibit the department from collecting any other fee
11 it has established for any other permit the department issues or any
12 other fee the department assesses any individual for any activity in the
13 department's normal course of business.

14 § 3. This act shall take effect on the thirtieth day after it shall
15 have become a law.

16 PART CC

17 Section 1. Section 2 of chapter 584 of the laws of 2011, amending the
18 public authorities law relating to the powers and duties of the dormito-
19 ry authority of the state of New York relative to the establishment of
20 subsidiaries for certain purposes, as amended by section 1 of part X of
21 chapter 58 of the laws of 2018, is amended to read as follows:

22 § 2. This act shall take effect immediately and shall expire and be
23 deemed repealed on July 1, [~~2020~~] 2024; provided however, that the expi-
24 ration of this act shall not impair or otherwise affect any of the
25 powers, duties, responsibilities, functions, rights or liabilities of
26 any subsidiary duly created pursuant to subdivision twenty-five of
27 section 1678 of the public authorities law prior to such expiration.

28 § 2. This act shall take effect immediately.

29 PART DD

30 Section 1. Subdivision (a) of section 2 and section 3 of part F of
31 chapter 60 of the laws of 2015 constituting the infrastructure invest-
32 ment act, subdivision (a) of section 2 of part F as amended by section 1
33 of part M of chapter 39 of the laws of 2019, and section 3 of part F as
34 amended by section 3 of part RRR of chapter 59 of the laws of 2017, are
35 amended to read as follows:

36 (a) (i) "authorized state entity" shall mean the New York state thru-
37 way authority, the department of transportation, the office of parks,
38 recreation and historic preservation, the department of environmental
39 conservation [~~and~~], the New York state bridge authority, the office of
40 general services, the dormitory authority, the urban development corpo-
41 ration, the state university construction fund, the New York state Olym-
42 pic regional development authority and the battery park city authority.

43 (ii) Notwithstanding the provisions of subdivision 26 of section 1678
44 of the public authorities law, section 8 of the public buildings law,
45 sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as
46 amended, section 103 of the general municipal law, and the provisions of
47 any other law to the contrary, the term "authorized state entity" shall
48 also refer to only those agencies or authorities identified below solely
49 in connection with the following authorized projects, provided that such
50 an authorized state entity may utilize the alternative delivery method
51 referred to as design-build contracts solely in connection with the

1 following authorized projects should the total cost of each such project
 2 not be less than five million dollars (\$5,000,000):

| 3 | Authorized Projects | Authorized State Entity |
|----|--------------------------------------|---------------------------------|
| 4 | 1. Frontier Town | Urban Development Corporation |
| 5 | 2. Life Sciences Laboratory | Dormitory Authority & Urban |
| 6 | | Development Corporation |
| 7 | 3. Whiteface Transformative Projects | New York State Olympic Regional |
| 8 | | Development Authority |
| 9 | 4. Gore Transformative Projects | New York State Olympic Regional |
| 10 | | Development Authority |
| 11 | 5. Belleayre Transformative Projects | New York State Olympic Regional |
| 12 | | Development Authority |
| 13 | 6. Mt. Van Hoevenberg Transformative | New York State Olympic Regional |
| 14 | Projects | Development Authority |
| 15 | 7. Olympic Training Center | New York State Olympic Regional |
| 16 | | Development Authority |
| 17 | 8. Olympic Arena and Convention | New York State Olympic Regional |
| 18 | Center Complex | Development Authority |
| 19 | 9. State Fair Revitalization | Office of General |
| 20 | Projects | Services |
| 21 | 10. State Police Forensic | Office of General |
| 22 | Laboratory | Services |

23 Notwithstanding any provision of law to the contrary, all rights or
 24 benefits, including terms and conditions of employment, and protection
 25 of civil service and collective bargaining status of all existing
 26 employees of authorized state entities [~~solely in connection with the~~
 27 ~~authorized projects listed above,~~] shall be preserved and protected.
 28 Nothing in this section shall result in the: (1) displacement of any
 29 currently employed worker or loss of position (including partial
 30 displacement such as a reduction in the hours of non-overtime work,
 31 wages, or employment benefits) or result in the impairment of existing
 32 collective bargaining agreements; [~~and~~] (2) transfer of existing duties
 33 and functions related to maintenance and operations currently performed
 34 by existing employees of authorized state entities to a contracting
 35 entity; or (3) transfer of future duties and functions ordinarily
 36 performed by employees of authorized state entities to the contracting
 37 entity. Nothing contained herein shall be construed to affect (A) the
 38 existing rights of employees pursuant to an existing collective bargain-
 39 ing agreement, and (B) the existing representational relationships among
 40 employee organizations or the bargaining relationships between the
 41 employer and an employee organization.

42 If otherwise applicable, authorized projects undertaken by the author-
 43 ized state entities listed above solely in connection with the
 44 provisions of this act shall be subject to section 135 of the state
 45 finance law, section 101 of the general municipal law, and section 222
 46 of the labor law; provided, however, that an authorized state entity may
 47 fulfill its obligations under section 135 of the state finance law or
 48 section 101 of the general municipal law by requiring the contractor to
 49 prepare separate specifications in accordance with section 135 of the

1 state finance law or section 101 of the general municipal law, as the
2 case may be.

3 § 3. Notwithstanding the provisions of section 38 of the highway law,
4 section 136-a of the state finance law, [~~section~~] sections 359, 1678,
5 1680, 1680-a and 2879-a of the public authorities law, [~~section~~]
6 sections 376, 407-a, 6281 and 7210 of the education law, sections 8 and
7 9 of the public buildings law, section 11 of chapter 795 of the laws of
8 1967, section 11 of section 1 of chapter 174 of the laws of 1968 as
9 amended, section 8 and 9 of section 1 of chapter 359 of the laws of 1968
10 as amended, section 29 of chapter 337 of the laws of 1972, section 21 of
11 chapter 464 of the laws of 1972, section 103 of the general municipal
12 law, and the provisions of any other law to the contrary, and in
13 conformity with the requirements of this act, an authorized state entity
14 may utilize the alternative delivery method referred to as design-build
15 contracts, in consultation with relevant local labor organizations and
16 construction industry, for capital projects located in the state related
17 to [~~the state's~~] physical infrastructure, including, but not limited to,
18 [~~the state's~~] highways, bridges, buildings and appurtenant structures,
19 dams, flood control projects, canals, and parks, including, but not
20 limited to, to repair damage caused by natural disaster, to correct
21 health and safety defects, to comply with federal and state laws, stand-
22 ards, and regulations, to extend the useful life of or replace [~~the~~
23 ~~state's~~] highways, bridges, buildings and appurtenant structures, dams,
24 flood control projects, canals, and parks or to improve or add to [~~the~~
25 ~~state's~~] highways, bridges, buildings and appurtenant structures, dams,
26 flood control projects, canals, and parks; provided that for the
27 contracts executed by the department of transportation, the office of
28 parks, recreation and historic preservation, or the department of envi-
29 ronmental conservation, the total cost of each such project shall not be
30 less than ten million dollars (\$10,000,000).

31 § 2. The opening paragraph and subdivision (a) of section 4 of part F
32 of chapter 60 of the laws of 2015 constituting the infrastructure
33 investment act, as amended by section 4 of part RRR of chapter 59 of the
34 laws of 2017, are amended to read as follows:

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

38 (a) Step one. Generation of a list of entities that have demonstrated
39 the general capability to perform the design-build contract. Such list
40 shall consist of a specified number of entities, as determined by an
41 authorized state entity, and shall be generated based upon the author-
42 ized state entity's review of responses to a publicly advertised request
43 for qualifications. The authorized state entity's request for qualifica-
44 tions shall include a general description of the project, the maximum
45 number of entities to be included on the list, the selection criteria to
46 be used and the relative weight of each criteria in generating the list.
47 Such selection criteria shall include the qualifications and experience
48 of the design and construction team, organization, demonstrated respon-
49 sibility, ability of the team or of a member or members of the team to
50 comply with applicable requirements, including the provisions of arti-
51 cles 145, 147 and 148 of the education law, past record of compliance
52 with the labor law, and such other qualifications the authorized state
53 entity deems appropriate which may include but are not limited to
54 project understanding, financial capability and record of past perform-
55 ance. The authorized state entity shall evaluate and rate all entities
56 responding to the request for qualifications. Based upon such ratings,

1 the authorized state entity shall list the entities that shall receive a
2 request for proposals in accordance with subdivision (b) of this
3 section. To the extent consistent with applicable federal law, the
4 authorized state entity shall consider, when awarding any contract
5 pursuant to this section, the participation of: (i) firms certified
6 pursuant to article 15-A of the executive law as minority or women-owned
7 businesses and the ability of other businesses under consideration to
8 work with minority and women-owned businesses so as to promote and
9 assist participation by such businesses; ~~and~~ (ii) small business
10 concerns identified pursuant to subdivision (b) of section 139-g of the
11 state finance law; and (iii) firms certified pursuant to article 17-B of
12 the executive law as service-disabled veteran-owned businesses and the
13 ability of other businesses under consideration to work with service-
14 disabled veteran-owned businesses so as to promote and assist partic-
15 ipation by such businesses.

16 § 3. Sections 7 and 8 of part F of chapter 60 of the laws of 2015
17 constituting the infrastructure investment act are amended to read as
18 follows:

19 § 7. If otherwise applicable, capital projects undertaken by the
20 authorized state entity pursuant to this act shall be subject to section
21 135 of the state finance law, section 101 of the general municipal law
22 and section 222 of the labor law; provided, however, that an authorized
23 state entity may fulfill its obligations under section 135 of the state
24 finance law or section 101 of the general municipal law by requiring the
25 contractor to prepare separate specifications in accordance with section
26 135 of the state finance law or section 101 of the general municipal
27 law, as the case may be.

28 § 8. Each contract entered into by the authorized state entity pursu-
29 ant to this section shall comply with the objectives and goals of minor-
30 ity and women-owned business enterprises pursuant to article 15-A of the
31 executive law and of service-disabled veteran-owned business enterprises
32 pursuant to article 17-B of the executive law or, for projects receiving
33 federal aid, shall comply with applicable federal requirements for
34 disadvantaged business enterprises.

35 § 4. Paragraph 3 of subdivision (a) and subdivision (b) of section 13
36 of part F of chapter 60 of the laws of 2015 constituting the infrastruc-
37 ture investment act, as amended by section 11 of part RRR of chapter 59
38 of the laws of 2017, are amended to read as follows:

39 3. (i) Utilizing a lump sum contract in which the contractor agrees to
40 accept a set dollar amount for a contract which comprises a single bid
41 without providing a cost breakdown for all costs such as for equipment,
42 labor, materials, as well as such contractor's profit for completing all
43 items of work comprising the project, which lump sum price may be nego-
44 tiated and established by the authorized state entity based on a
45 proposed guaranteed maximum price.

46 (ii) The design-build contract may include both lump sum elements and
47 cost-plus not to exceed guaranteed maximum price elements and may also
48 provide for professional services on a fee-for-service basis.

49 (b) Capital projects undertaken by an authorized state entity may
50 include an incentive clause in the contract for various performance
51 objectives, but the incentive clause shall not include an incentive that
52 exceeds the quantifiable value of the benefit received by the authorized
53 state entity. ~~The~~ Notwithstanding the provisions of sections 136 and
54 137 of the state finance law, the authorized state entity shall ~~estab-~~
55 ~~lish~~ require such performance and payment bonds, or other form of
56 undertaking as it deems necessary.

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

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

§ 6. Section 17 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, as amended by section 1 of part WWW of chapter 59 of the laws of 2019, is amended to read as follows:

§ 17. This act shall take effect immediately and shall expire and be deemed repealed [~~6 years after such date~~] on July 1, 2023, provided that, projects with requests for qualifications issued prior to such repeal shall be permitted to continue under this act notwithstanding such repeal.

§ 7. This act shall take effect immediately; provided, however, that the amendments to part F of chapter 60 of the laws of 2015 made by sections one, two, three, four and five of this act shall not affect the repeal of such part and shall be deemed to repeal therewith.

PART EE

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part Z of chapter 58 of the laws of 2019, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2020~~] 2021.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2020.

PART FF

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part Y of chapter 58 of the laws of 2019, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2020~~] 2021, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2020.

PART GG

Section 1. Paragraph (a) of subdivision 11 of section 400 of the economic development law, as amended by section 3 of part QQ of chapter 60 of the laws of 2016, is amended to read as follows:

(a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected

1 by the governor of the state of New York for closure after April first,
2 two thousand eleven[~~but no later than March thirty first, two thousand~~
3 ~~twelve~~]; or

4 § 2. This act shall take effect immediately; provided, however, that
5 the amendments to section 400 of the economic development law made by
6 section one of this act shall not affect the repeal of such section and
7 shall be deemed repealed therewith.

8 PART HH

9 Section 1. Expenditures of moneys by the New York state energy
10 research and development authority for services and expenses of the
11 energy research, development and demonstration program, including
12 grants, the energy policy and planning program, the zero emissions vehi-
13 cle and electric vehicle rebate program, and the Fuel NY program shall
14 be subject to the provisions of this section. Notwithstanding the
15 provisions of subdivision 4-a of section 18-a of the public service law,
16 all moneys committed or expended in an amount not to exceed \$22,700,000
17 shall be reimbursed by assessment against gas corporations, as defined
18 in subdivision 11 of section 2 of the public service law and electric
19 corporations as defined in subdivision 13 of section 2 of the public
20 service law, where such gas corporations and electric corporations have
21 gross revenues from intrastate utility operations in excess of \$500,000
22 in the preceding calendar year, and the total amount which may be
23 charged to any gas corporation and any electric corporation shall not
24 exceed one cent per one thousand cubic feet of gas sold and .010 cent
25 per kilowatt-hour of electricity sold by such corporations in their
26 intrastate utility operations in calendar year 2018. Such amounts shall
27 be excluded from the general assessment provisions of subdivision 2 of
28 section 18-a of the public service law. The chair of the public service
29 commission shall bill such gas and/or electric corporations for such
30 amounts on or before August 10, 2020 and such amounts shall be paid to
31 the New York state energy research and development authority on or
32 before September 10, 2020. Upon receipt, the New York state energy
33 research and development authority shall deposit such funds in the ener-
34 gy research and development operating fund established pursuant to
35 section 1859 of the public authorities law. The New York state energy
36 research and development authority is authorized and directed to: (1)
37 transfer up to \$4 million to the state general fund for climate change
38 related services and expenses of the department of environmental conser-
39 vation, \$150,000 to the state general fund for services and expenses of
40 the department of agriculture and markets, and \$825,000 to the Universi-
41 ty of Rochester laboratory for laser energetics from the funds received;
42 and (2) commencing in 2016, provide to the chair of the public service
43 commission and the director of the budget and the chairs and secretaries
44 of the legislative fiscal committees, on or before August first of each
45 year, an itemized record, certified by the president and chief executive
46 officer of the authority, or his or her designee, detailing any and all
47 expenditures and commitments ascribable to moneys received as a result
48 of this assessment by the chair of the department of public service
49 pursuant to section 18-a of the public service law. This itemized
50 record shall include an itemized breakdown of the programs being funded
51 by this section and the amount committed to each program. The authority
52 shall not commit for any expenditure, any moneys derived from the
53 assessment provided for in this section, until the chair of such author-
54 ity shall have submitted, and the director of the budget shall have

1 approved, a comprehensive financial plan encompassing all moneys avail-
2 able to and all anticipated commitments and expenditures by such author-
3 ity from any source for the operations of such authority. Copies of the
4 approved comprehensive financial plan shall be immediately submitted by
5 the chair to the chairs and secretaries of the legislative fiscal
6 committees. Any such amount not committed by such authority to
7 contracts or contracts to be awarded or otherwise expended by the
8 authority during the fiscal year shall be refunded by such authority on
9 a pro-rata basis to such gas and/or electric corporations, in a manner
10 to be determined by the department of public service, and any refund
11 amounts must be explicitly lined out in the itemized record described
12 above.

13 § 2. This act shall take effect immediately and shall be deemed to
14 have been in full force and effect on and after April 1, 2020.

15 PART II

16 Section 1. The closing paragraph of subdivision 1 of section 161 of
17 the labor law, as added by chapter 105 of the laws of 2019, is amended
18 to read as follows:

19 Every person employed as a farm laborer shall be allowed at least
20 twenty-four consecutive hours of rest in each and every calendar week.
21 This requirement shall not apply to the employer or parent, child,
22 spouse or other member of the employer's immediate family. The term
23 "employer" shall have the same meaning as defined in paragraphs (a) and
24 (b) of subdivision two of section seven hundred one of this chapter. The
25 term "immediate family member" shall mean family related to the third
26 degree of consanguinity or affinity. Twenty-four consecutive hours spent
27 at rest because of circumstances, such as weather or crop conditions,
28 shall be deemed to constitute the rest required by this paragraph. No
29 provision of this paragraph shall prohibit a farm laborer from voluntar-
30 ily agreeing to work on such day of rest required by this paragraph,
31 provided that the farm laborer is compensated at an overtime rate which
32 is at least one and one-half times the laborer's regular rate of pay for
33 all hours worked on such day of rest. The term "farm labor" as used in
34 this section and sections one hundred sixty-two and one hundred sixty-
35 three-a of this article shall include all services performed in agricul-
36 tural employment in connection with cultivating the soil, or in
37 connection with raising or harvesting of agricultural commodities,
38 including the raising, shearing, caring for and management of livestock,
39 poultry or dairy. The day of rest authorized under this subdivision
40 should, whenever possible, coincide with the traditional day reserved by
41 the farm laborer for religious worship.

42 § 2. Section 163-a of the labor law, as added by chapter 105 of the
43 laws of 2019, is amended to read as follows:

44 § 163-a. Farm laborers. No person or corporation operating a farm
45 shall require any [~~employee~~] farm laborer to work more than sixty hours
46 in any calendar week; provided, however, that any overtime work
47 performed by a farm laborer shall be at a rate which is at least one and
48 one-half times the laborer's regular rate of pay. No wage order subject
49 to the provisions of this chapter shall be applicable to a farm laborer
50 other than a wage order established pursuant to section six hundred
51 seventy-four or six hundred seventy-four-a of this chapter.

52 § 3. Paragraph (c) of subdivision 3 of section 701 of the labor law,
53 as added by chapter 105 of the laws of 2019, is amended to read as
54 follows:

(c) The term "employee" shall also include farm laborers. "Farm laborers" shall mean any individual engaged or permitted by an employer to work on a farm, except the parent, spouse, child, or other member of the employer's immediate family. The term "immediate family member" shall mean family related to the third degree of consanguinity or affinity.

§ 4. This act shall take effect immediately.

PART JJ

Section 1. Section 103 of the general municipal law is amended by adding a new subdivision 9-b to read as follows:

9-b. Notwithstanding the foregoing provisions of this section to the contrary, a board of education, on behalf of its school district, or a board of cooperative educational services, that purchases goods and services for the federal child nutrition programs may use its own procurement procedures which adhere to applicable local laws and regulations, provided that procurements made with nonprofit school food account funds adhere to the standards set forth in the national school lunch program (7 CFR 210), school breakfast program (7 CFR 220), summer food service program (7 CFR 225), and in 2 CFR part 200, subpart D, as applicable.

§ 2. This act shall take effect immediately.

PART KK

Section 1. Subdivision 4 of section 1285-j of the public authorities law is amended by adding a new closing paragraph to read as follows:

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the hardship criteria established pursuant to section 17-1909 of the environmental conservation law, may have a final maturity up to forty years following completion of the eligible project.

§ 2. Subdivision 4 of section 1285-m of the public authorities law is amended by adding a new closing paragraph to read as follows:

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the hardship criteria established pursuant to title four of article eleven of the public health law, may have a final maturity up to forty years following completion of the eligible project.

§ 3. This act shall take effect immediately.

PART LL

Section 1. The banking law is amended by adding a new article 7 to read as follows:

ARTICLE VII

LICENSED CONSUMER DEBT COLLECTORS

Section 295. Definitions.

296. License required; entities exempt.

297. Application for license; fees.

298. Surety bond required.

299. Examination; books and records; reports.

300. Prohibited acts.

301. Regulations; minimum standards.

302. Application for acquisition of control of a consumer debt collector.

1 303. Suspension and revocation.

2 304. Bad actors.

3 § 295. Definitions. As used in this article:

4 1. "Applicant" means a consumer debt collector who has filed an appli-
5 cation to obtain a license under this article.

6 2. "Communication" and "communicate" means the conveying of informa-
7 tion regarding a debt directly or indirectly to any person through any
8 medium.

9 3. "Consumer debt" means any obligation of a natural person for the
10 payment of money or its equivalent which arises out of a transaction
11 which was primarily for personal, family, or household purposes. The
12 term includes an obligation of a natural person who is a co-maker,
13 endorser, guarantor or surety of such a transaction.

14 4. "Consumer debtor" means any natural person obligated or allegedly
15 obligated to pay any consumer debt.

16 5. "Consumer debt collector" means any person who engages in a busi-
17 ness, a principal purpose of which is the collection of consumer debts
18 or of debt buying, or who regularly collects or attempts to collect,
19 directly or indirectly, consumer debts owed or due to another person.
20 The term includes any creditor who, in the process of collecting its own
21 consumer debts, and uses any name other than its own which would reason-
22 ably indicate that a third person is collecting or attempting to collect
23 a consumer debt.

24 6. "Control" means the possession, direct or indirect, of the power to
25 direct or cause the direction of the management and policies of a
26 person, whether through the ownership of voting securities, by contract,
27 except a commercial contract for goods or non-management services, or
28 otherwise; but no person shall be deemed to control another person sole-
29 ly by reason of his or her being an officer or director of such other
30 person. Control shall be presumed to exist if any person directly or
31 indirectly owns, controls or holds with the power to vote ten percent or
32 more of the voting securities of any other person.

33 7. "Creditor" means any person to whom a consumer debt is owed.

34 8. "Licensee" means a consumer debt collector that possesses one or
35 more licenses pursuant to this article.

36 9. "Person" means a natural person or any entity, including but not
37 limited to any partnership, corporation, branch, agency, association,
38 organization, any similar entity or any combination of the foregoing
39 acting in concert.

40 § 296. License required; entities exempt. 1. No person shall act with-
41 in this state as a consumer debt collector, directly or indirectly,
42 without first obtaining a license from the superintendent. A consumer
43 debt collector is acting within this state if it is seeking to collect
44 from any consumer debtor that resides within this state.

45 2. No creditor may utilize the services of a consumer debt collector
46 to collect from a consumer debtor that resides within this state unless
47 the consumer debt collector is licensed by the superintendent.

48 3. The requirements of subdivisions one and two of this section shall
49 not apply to:

50 (a) an individual employed by a licensed consumer debt collector when
51 attempting to collect on behalf of such consumer debt collector;

52 (b) a person who receives funds in escrow for subsequent distribution
53 to others, including, but not limited to, a real estate broker or lender
54 holding funds of borrowers for payment of taxes or insurance;

55 (c) any public officer acting in their official capacity;

1 (d) a person who is principally engaged in the business of servicing
2 loans or accounts which are not delinquent for the owners thereof when
3 in addition to requesting payment from delinquent consumer debtors, the
4 person provides other services including receipt of payment, accounting,
5 record-keeping, data processing services and remitting, for loans or
6 accounts which are current as well as those which are delinquent;

7 (e) any person while serving or attempting to serve legal process on
8 any other person in connection with the judicial enforcement of any
9 debt;

10 (f) any non-profit organization which, at the request of a consumer
11 debtor, performs bona fide consumer credit counseling and assists
12 customers in the liquidation of their debts by receiving payments from
13 such consumer debtors and distributing such amounts to creditors;

14 (g) any national bank, federal reserve bank, or agency or division of
15 the federal government, or any person, partnership, association, corpo-
16 ration or other organization doing business under or pursuant to the
17 provisions of this chapter, or any insurer doing business under a
18 license issued under the insurance law; and

19 (h) a subsidiary or affiliate of any national bank, federal reserve
20 bank, or agency or division of the federal government, or any person,
21 partnership, association, corporation or other organization doing busi-
22 ness under or pursuant to the provisions of this chapter or any insurer
23 doing business under a license issued under the insurance law, provided
24 such affiliate or subsidiary is not primarily engaged in the business of
25 purchasing and collecting upon delinquent debt, other than delinquent
26 debt secured by real property.

27 § 297. Application for license; fees. 1. (a) An application for a
28 license under this article shall be in writing, under oath, and in the
29 form prescribed by the superintendent and shall contain such information
30 as the superintendent may require.

31 (b) The superintendent may reject an application for a license or an
32 application for the renewal of a license if he or she is not satisfied
33 that the financial responsibility, character, reputation, integrity and
34 general fitness of the applicant and of the owners, partners or members
35 thereof, if the applicant be a partnership or association, and of the
36 officers and directors, if the applicant be a corporation, are such as
37 to command the confidence of the public and to warrant the belief that
38 the business for which the application for a license is filed will be
39 operated lawfully, honestly and fairly.

40 (c) In addition to any other information the superintendent may
41 require the application to also include a description of the activities
42 of the applicant, in such detail and for such periods, as the super-
43 intendent may establish.

44 2. At the time of making the application for a license, the applicant
45 shall pay to the superintendent a fee as prescribed pursuant to section
46 eighteen-a of this chapter for each proposed location, for investigating
47 the application.

48 3. In addition to any other fee imposed on an applicant or licensee,
49 every licensee shall pay to the superintendent the sums provided to be
50 paid under the provisions of section two hundred six of the financial
51 services law.

52 4. The license shall be for a period of one year as of the first of
53 September each year, or such other date as determined by the superinten-
54 dent by regulation.

55 5. Each license shall plainly state the name of the licensee and the
56 city or town with the name of the street and number, if any, of the

1 place where the business is to be carried on. A licensee shall not
2 change the location where the business of the licensee is to be carried
3 on without first obtaining the prior approval of the superintendent. A
4 request for relocation shall be in writing setting forth the reason for
5 the request, and shall be accompanied by a relocation investigation fee
6 to be determined pursuant to section eighteen-a of this chapter.

7 6. The business shall at all times be conducted in the name of the
8 licensee as it appears on the license.

9 7. The license shall not be transferable nor assignable.

10 8. The superintendent may participate in a multi-state licensing
11 system for the sharing of regulatory information and for the licensing
12 and application, by electronic or other means, of entities engaged in
13 the business of debt collection. The superintendent may establish
14 requirements for participation by an applicant in a multi-state licens-
15 ing system which may vary from the provisions of this section. The
16 superintendent may require a background investigation of each applicant
17 for a consumer debt collector license by means of fingerprint, which
18 shall be submitted by all applicants simultaneously with an application
19 and which the superintendent may submit to the division of criminal
20 justice services and the federal bureau of investigations for state and
21 national criminal history record checks. If the applicant is a partner-
22 ship, association, corporation or other form of business organization,
23 the superintendent may require a background investigation for each
24 member, director and principal officer of the applicant and any individ-
25 ual acting as a manager of an office location. The applicant shall pay
26 directly to the multi-state licensing system any additional fees relat-
27 ing to participation in the multi-state licensing system.

28 § 298. Surety bond required. 1. A consumer debt collector shall be
29 required to file and maintain in force a surety bond, issued by a domes-
30 tic insurer, as a condition precedent to the issuance or renewal and
31 maintenance of a license under this article. The bond shall be for the
32 benefit of creditors who obtain a judgment from a court of competent
33 jurisdiction based on the failure of the consumer debt collector to
34 remit money collected on account and owed to the creditor. The bond
35 shall also be for the benefit of consumer debtors who obtain judgment
36 from a court of competent jurisdiction based on a violation by the
37 consumer debt collector of the federal Fair Debt Collection Practice Act
38 or any other New York law or federal law which is applicable to the
39 consumer debt collector. The bond shall be in a form prescribed by the
40 superintendent in the sum of twenty-five thousand dollars. The bond
41 shall be continuous in form and run concurrently with the original and
42 each renewal license period unless terminated by the insurance company.
43 An insurance company may terminate a bond and avoid further liability by
44 filing a notice of termination with the department sixty days prior to
45 the termination and at the same time sending the same notice to the
46 consumer debt collector.

47 2. A license shall be automatically cancelled on the termination date
48 of the bond unless a new bond is filed with the department to become
49 effective at the termination date of the prior bond.

50 3. If a license has been cancelled under this section, the consumer
51 debt collector must file a new application to obtain a license and will
52 be considered a new applicant if it obtains a new bond.

53 4. For the purposes of this section the term "domestic insurer" shall
54 have the same meaning as given in section one hundred seven of the
55 insurance law. If a bond required by this section is not reasonably
56 available from a domestic insurer the superintendent may, in his or her

1 discretion, permit, on a case by case basis or by order, consumer debt
2 collectors to obtain the bond required by this section from such other
3 entities licensed by the department as the superintendent deems appro-
4 priate.

5 § 299. Examination; books and records; reports. 1. For the purpose of
6 enforcing the provisions of this article and for ensuring the safe and
7 sound operation of the consumer debt collector business, the superinten-
8 dent may at any time, and as often as may be determined, either
9 personally or by a person duly appointed by the superintendent, investi-
10 gate the loans and business and examine the books, accounts, records,
11 and files used therein of every licensee.

12 2. The superintendent and duly designated representatives shall have
13 free access to the offices and place of business, books, accounts,
14 papers, records, audio recordings, files, safes and vaults of all such
15 licensees wherever located. The superintendent shall have authority to
16 require the attendance of and to examine under oath all persons whomsoe-
17 ver whose testimony may be required relative to such loans or such busi-
18 ness.

19 3. The superintendent may also address to a licensee, or the officers
20 thereof, any inquiry in relation to its transactions, operations, or
21 conditions, or any matter connected therewith. Every person so addressed
22 shall reply in writing to such inquiry promptly and truthfully, and such
23 reply shall be, if required by the superintendent, subscribed by such
24 individual, or by such officer or officers of a corporation, as the
25 superintendent shall designate, and affirmed by them as true under the
26 penalties of perjury.

27 4. Each licensee shall keep and use in its business such books,
28 accounts, and records as will enable the superintendent to determine
29 whether such licensee is complying with the provisions of this article
30 and with the rules and regulations promulgated hereunder. Every licensee
31 shall preserve such books, accounts, and records, for at least five
32 years after making the final entry regarding a consumer debt. Preserva-
33 tion of photographic reproduction thereof or records in photographic
34 form, including an optical disk storage system and the use of electronic
35 data processing equipment that provides comparable records to those
36 otherwise required and which are available for examination upon request
37 shall constitute compliance with the requirements of this section.

38 5. Each licensee shall annually, on or before April first, file a
39 report with the superintendent giving such information as the super-
40 intendent may require concerning the business and operations during the
41 preceding calendar year of each licensed place of business conducted by
42 such licensee within the state under authority of this article. Such
43 report shall be subscribed and affirmed as true by the licensee under
44 the penalties of perjury and shall be in the form prescribed by the
45 superintendent.

46 6. In addition to annual reports, the superintendent may require such
47 additional regular or special reports as may be deemed necessary to the
48 proper supervision of licensees under this article. Such additional
49 reports shall be in the form prescribed by the superintendent and shall
50 be subscribed and affirmed as true under the penalties of perjury.

51 7. The expenses of every examination of the affairs of a consumer debt
52 collector subject to this section shall be borne and paid by the licen-
53 see.

54 § 300. Prohibited acts. 1. No consumer debt collector that is required
55 to be licensed under this article shall engage in unfair, unconsciona-

1 ble, deceptive, false, misleading, abusive, or unlawful acts or prac-
2 tices.

3 2. Without limiting the general application of the prohibited acts in
4 subdivision one of this section, it shall be unlawful for any consumer
5 debt collector to:

6 (a) engage in any act or practice which would be a violation of the
7 federal Fair Debt Collection Practice Act, any other New York law or
8 federal law which is applicable to the consumer debt collector, or any
9 act or practice which would be prohibited under section six hundred one
10 of the general business law if the consumer debt collector was a princi-
11 pal creditor;

12 (b) engage or retain the services of any person who, being required to
13 be licensed under this article, does not have a valid license issued by
14 the department; or

15 (c) cause any act to be done which violates this section.

16 3. No consumer debt collector licensed under this article shall:

17 (a) without the prior written and revocable consent of the consumer
18 debtor given directly to the debt collector or the express permission of
19 a court of competent jurisdiction, engage in any communication with a
20 consumer debtor in connection with the collection of any debts:

21 (i) at any unusual time or place or a time or place known or which
22 should be known to be inconvenient to the consumer debtor. In the
23 absence of knowledge of circumstances to the contrary, a debt collector
24 shall assume that the convenient time for communicating with a consumer
25 debtor is after eight o'clock antemeridian and before eight o'clock
26 postmeridian, local time at the consumer debtor's location;

27 (ii) if the debt collector knows the consumer debtor is represented by
28 an attorney with respect to such debt and has knowledge of, or can read-
29 ily ascertain, such attorney's name and address, unless the attorney
30 fails to respond within a reasonable period of time to a communication
31 from the debt collector or unless the attorney consents to direct commu-
32 nication with the consumer debtor;

33 (iii) at the consumer debtor's place of employment;

34 (iv) more than two times in a seven day period;

35 (v) by voicemail on to any telephone that is known or which reasonably
36 should be known may be received by someone other than the consumer
37 debtor; or

38 (vi) by means of electronic communications, including but not limited
39 to SMS text message, messaging applications on mobile telephones, elec-
40 tronic mail, Facebook, and other forms of social media.

41 (b) communicate with a consumer debtor by postcard;

42 (c) continue communication with a consumer debtor after the consumer
43 debt collector's first communication if the debt collector fails to send
44 the consumer debtor a notice in writing within five days of that first
45 communication, which such notice shall be promulgated by the superinten-
46 dent; or

47 (d) continue to communicate with a consumer debtor about a consumer
48 debt that the consumer debtor disputes without providing the consumer
49 debtor with documents that verify the disputed consumer debt.

50 § 301. Regulations; minimum standards. The superintendent may promul-
51 gate rules and regulations giving effect to the provisions of this arti-
52 cle. Such rules and regulations may include but shall not be limited to
53 the establishment of minimum standards to be observed by consumer debt
54 collectors acting within this state and further defining acts and prac-
55 tices which are unfair, unconscionable, deceptive, false, misleading,
56 abusive, or unlawful under section three hundred of this article.

1 § 302. Application for acquisition of control of a consumer debt
2 collector. 1. No person shall acquire control of a licensee under this
3 article without the prior approval of the superintendent.

4 2. Any person desirous of acquiring such control shall make written
5 application to the superintendent, such application shall be in such
6 form and shall contain such information, including the information
7 required under section two hundred ninety-seven of this article, as the
8 superintendent may require and such person, at the time of making such
9 application if not licensed, shall pay to the superintendent an investi-
10 gation fee as prescribed pursuant to section eighteen-a of this chapter.

11 3. In determining whether to approve or deny an application under this
12 section, the superintendent shall consider:

13 (a) whether the financial responsibility, experience, character, and
14 general fitness of the person seeking to acquire control, and of the
15 members thereof if such person be a partnership or association, and of
16 the officers, directors and controlling stockholders thereof if such
17 person be a corporation, are such as to command the confidence of the
18 community and to warrant belief that the business will be operated
19 honestly, fairly, and efficiently within the purpose of this article;

20 (b) the effect the acquisition may have on competition; and

21 (c) whether the acquisition may be hazardous or prejudicial to consum-
22 er debtors or consumer creditors in this state.

23 4. If no such application has been made prior to the acquisition of
24 control, the license for each place of business maintained and operated
25 by the licensee shall, at the discretion of the superintendent, become
26 null and void and each such license shall be surrendered to the super-
27 intendent.

28 § 303. Suspension and revocation. In addition to any other power
29 provided by law, the superintendent may suspend or revoke the license of
30 a consumer debt collector, if after notice and an opportunity to be
31 heard, the superintendent finds that a consumer debt collector has:

32 1. committed any fraud, engaged in any dishonest activities or made
33 any misrepresentation;

34 2. violated any provisions of this chapter or any regulation issued
35 pursuant thereto, or has violated any other law in the course of its or
36 his dealings as a consumer debt collector;

37 3. made a false statement or material omission in the application for
38 a license under this article or failed to give a true reply to a ques-
39 tion in such application; or

40 4. demonstrated incompetency or untrustworthiness to act as a consumer
41 debt collector.

42 § 304. Bad actors. 1. In addition to any other power provided by law,
43 the superintendent may require any licensee to remove any director,
44 officer or employee or to refrain from engaging or retaining any inde-
45 pendent contractor or service provider if such director, officer,
46 employee, independent contractor or service provider has themselves had
47 a license under this chapter suspended or revoked, or has caused the
48 licensee to violate any provision of this chapter or regulations promul-
49 gated thereunder.

50 2. No person that is the subject of an order under this section remov-
51 ing them as a director, officer or employee or preventing a licensee
52 from engaging or retaining them as an independent contractor or service
53 provider, shall become engaged with any licensee without obtaining the
54 prior written approval of the superintendent. Nor shall such person fail
55 to disclose that it is the subject of an order under this section to any

1 licensee for which it is acting or seeking to act as a director, offi-
2 cer, employee, independent contractor or service provider.

3 § 2. Subdivision 10 of section 36 of the banking law, as amended by
4 section 2 of part L of chapter 58 of the laws of 2019, is amended to
5 read as follows:

6 10. All reports of examinations and investigations, correspondence and
7 memoranda concerning or arising out of such examination and investi-
8 gations, including any duly authenticated copy or copies thereof in the
9 possession of any banking organization, bank holding company or any
10 subsidiary thereof (as such terms "bank holding company" and "subsidi-
11 ary" are defined in article three-A of this chapter), any corporation
12 or any other entity affiliated with a banking organization within the
13 meaning of subdivision six of this section and any non-banking subsid-
14 iary of a corporation or any other entity which is an affiliate of a
15 banking organization within the meaning of subdivision six-a of this
16 section, foreign banking corporation, licensed lender, licensed casher
17 of checks, licensed mortgage banker, registered mortgage broker,
18 licensed mortgage loan originator, licensed sales finance company,
19 registered mortgage loan servicer, licensed student loan servicer,
20 licensed insurance premium finance agency, licensed transmitter of
21 money, licensed budget planner, licensed consumer debt collector, any
22 other person or entity subject to supervision under this chapter, or the
23 financial services law or the insurance law, or the department, shall be
24 confidential communications, shall not be subject to subpoena and shall
25 not be made public unless, in the judgment of the superintendent, the
26 ends of justice and the public advantage will be subserved by the publi-
27 cation thereof, in which event the superintendent may publish or author-
28 ize the publication of a copy of any such report or any part thereof in
29 such manner as may be deemed proper or unless such laws specifically
30 authorize such disclosure. For the purposes of this subdivision,
31 "reports of examinations and investigations, and any correspondence and
32 memoranda concerning or arising out of such examinations and investi-
33 gations", includes any such materials of a bank, insurance or securities
34 regulatory agency or any unit of the federal government or that of this
35 state any other state or that of any foreign government which are
36 considered confidential by such agency or unit and which are in the
37 possession of the department or which are otherwise confidential materi-
38 als that have been shared by the department with any such agency or unit
39 and are in the possession of such agency or unit.

40 § 3. Paragraph (a) of subdivision 1 of section 44 of the banking law,
41 as amended by section 4 of part L of chapter 58 of the laws of 2019, is
42 amended to read as follows:

43 (a) Without limiting any power granted to the superintendent under any
44 other provision of this chapter, the superintendent may, in a proceeding
45 after notice and a hearing, require any safe deposit company, licensed
46 lender, licensed casher of checks, licensed sales finance company,
47 licensed insurance premium finance agency, licensed transmitter of
48 money, licensed mortgage banker, licensed student loan servicer, regis-
49 tered mortgage broker, licensed mortgage loan originator, registered
50 mortgage loan servicer, licensed consumer debt collector or licensed
51 budget planner to pay to the people of this state a penalty for any
52 violation of this chapter, any regulation promulgated thereunder, any
53 final or temporary order issued pursuant to section thirty-nine of this
54 article, any condition imposed in writing by the superintendent in
55 connection with the grant of any application or request, or any written
56 agreement entered into with the superintendent.

§ 4. The opening paragraph of subdivision (a) of section 3218 of the civil practice law and rules, as amended by chapter 311 of the laws of 1963, is amended to read as follows:

Affidavit of defendant. Except as provided in section thirty-two hundred one of this article and subdivision (e) of this section, a judgment by confession may be entered, without an action, either for money due or to become due, or to secure the plaintiff against a contingent liability in behalf of the defendant, or both, upon an affidavit executed by the defendant;

§ 5. Section 3218 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(e) Prohibition on certain judgments by confession. No judgment of confession may be entered on: 1. any amount due from one or more individuals for personal, family, household, consumer, investment or non-business purposes;

2. any amount under two hundred fifty thousand dollars due from any person for any purpose; or

3. any amount due from any person that either: (i) is currently not a resident of the state, (ii) was not a resident of the state at the time the affidavit authorizing the entry of the judgment of confession was executed, or (iii) if not a natural person, does not have a place of business in the state or did not have a place of business in the state at the time the affidavit authorizing the entry of the judgment of confession was executed.

§ 6. This act shall take effect immediately, provided, however that sections one, two and three of this act shall take effect on October 1, 2020. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART MM

Section 1. The financial services law is amended by adding a new article 7 to read as follows:

ARTICLE 7

STUDENT DEBT RELIEF CONSULTANTS

Section 701. Definitions.

702. Prohibitions.

703. Disclosure requirements.

704. Student debt consulting contracts.

705. Penalties and other provisions.

706. Rules and regulations.

§ 701. Definitions. (a) The term "advertisement" shall include, but is not limited to, all forms of marketing, and solicitation of information related to securing or obtaining a student debt consulting contract or services. Further, it shall include any and all commonly recognized forms of media marketing via television, radio, print media, all forms of electronic communication via the internet, and all prepared sales presentations given in person or over the internet to the general public.

(b) "Borrower" means any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

1 (c) "FSA ID" means a username and password allocated to an individual
2 by the federal government to enable the individual to log in to certain
3 United States department of education websites, and may be used to sign
4 certain documents electronically.

5 (d) "Student loan" means any loan to a borrower to finance post-second-
6 ary education or expenses related to post-secondary education.

7 (e) "Student debt consulting contract" or "contract" means an agree-
8 ment between a borrower and a consultant under which the consultant
9 agrees to provide student debt consulting services.

10 (f) "Student debt consultant" or "consultant" means an individual or a
11 corporation, partnership, limited liability company or other business
12 entity that, directly or indirectly, solicits or undertakes student debt
13 consulting services. A consultant does not include the following:

14 (i) a person or entity who holds or is owed an obligation on the
15 student loan while the person or entity performs services in connection
16 with the student loan;

17 (ii) a bank, trust company, private banker, bank holding company,
18 savings bank, savings and loan association, thrift holding company,
19 credit union or insurance company organized under the laws of this
20 state, another state or the United States, or a subsidiary or affiliate
21 of such entity or a foreign banking corporation licensed by the super-
22 intendent of financial services or the comptroller of the currency;

23 (iii) a bona fide not-for-profit organization that offers counseling
24 or advice to borrowers;

25 (iv) an attorney admitted to practice in the state of New York when
26 the attorney is providing student debt consulting services to a borrower
27 free of charge;

28 (v) an institution of higher education wherein the borrower is or was
29 enrolled; or

30 (vi) such other persons as the superintendent prescribes or interprets
31 by rule.

32 (g) "Student debt consulting services" means services that a student
33 debt consultant provides to a borrower that the consultant represents
34 will help to achieve any of the following:

35 (i) stop, enjoin, delay, void, set aside, annul, stay or postpone a
36 default, bankruptcy, tax offset, or garnishment proceeding;

37 (ii) obtain a forbearance, deferment, or other relief that temporarily
38 halts repayment of a student loan;

39 (iii) assist the borrower with preparing or filing documents related
40 to student loan repayment;

41 (iv) advise the borrower which student loan repayment plan or forgive-
42 ness program to consider;

43 (v) enroll the borrower in any student loan repayment, forgiveness,
44 discharge, or consolidation program;

45 (vi) assist the borrower in re-establishing eligibility for federal
46 student financial assistance;

47 (vii) assist the borrower in removing a student loan from default; or

48 (viii) educate the borrower about student loan repayment.

49 § 702. Prohibitions. A student debt consultant is prohibited from
50 doing the following:

51 (a) performing student debt consulting services without a written,
52 fully executed contract with a borrower;

53 (b) charging for or accepting any payment for student debt consulting
54 services before the full completion of all such services, including a
55 payment to be placed in escrow or any other account pending the
56 completion of such services;

1 (c) taking a power of attorney from a borrower;
2 (d) retaining any original loan document or other original document
3 related to a borrower's student loan;
4 (e) requesting that a borrower provide his or her FSA ID to the
5 consultant, or accepting a borrower's FSA ID;
6 (f) stating or implying that a borrower will not be able to obtain
7 relief on their own;
8 (g) misrepresenting, expressly or by implication, that:
9 (i) the consultant is a part of, affiliated with, or endorsed or spon-
10 sored by the government, government loan programs, the United States
11 department of education, or borrowers' student loan servicers; or
12 (ii) some or all of a borrower's payments to the consultant will be
13 applied towards the borrower's student loans;
14 (h) inducing or attempting to induce a student debtor to enter a
15 contract that does not fully comply with the provisions of this article;
16 or
17 (i) engaging in any unfair, deceptive, or abusive act or practice.
18 § 703. Disclosure requirements. (a) A student debt consultant shall
19 clearly and conspicuously disclose in all advertisements:
20 (i) the actual services the consultant provides to borrowers;
21 (ii) that borrowers can apply for and obtain consolidation loans from
22 the United States department of education at no cost, including provid-
23 ing a direct link in all written advertising to the application materi-
24 als for a direct consolidation loan from the U.S. department of educa-
25 tion;
26 (iii) that consolidation or other services offered by the consultant
27 may not be the best or only option for borrowers;
28 (iv) that a borrower may obtain alternative federal student loan
29 repayment plans, including income-based programs, without consolidating
30 existing federal student loans; and
31 (v) that borrowers should consider consulting their student loan
32 servicer before signing any legal document concerning a student loan.
33 (b) The disclosures required by subsection (a) of this section, if
34 disseminated through print media or the internet, shall be clearly and
35 legibly printed or displayed in not less than twelve-point bold type,
36 or, if the advertisement is printed to be displayed in print that is
37 smaller than twelve-point, in bold type print that is no smaller than
38 the print in which the text of the advertisement is printed or
39 displayed.
40 (c) The provisions of this section shall apply to all consultants who
41 disseminate advertisements in the state of New York or who intend to
42 directly or indirectly contact a borrower who has a student loan and is
43 a resident of New York state. Consultants shall establish and at all
44 times maintain control over the content, form and method of dissem-
45 ination of all advertisements of their services. Further, all advertise-
46 ments shall be sufficiently complete and clear to avoid the possibility
47 of deception or the ability to mislead or deceive.
48 § 704. Student debt consulting contracts. (a) A student debt consult-
49 ing contract shall:
50 (1) contain the entire agreement of the parties;
51 (2) be provided in writing to the borrower for review before signing;
52 (3) be printed in at least twelve-point type and written in the same
53 language that is used by the borrower and was used in discussions
54 between the consultant and the borrower to describe the borrower's
55 services or to negotiate the contract;

1 (4) fully disclose the exact nature of the services to be provided by
2 the consultant or anyone working in association with the consultant;

3 (5) fully disclose the total amount and terms of compensation for such
4 services;

5 (6) contain the name, business address and telephone number of the
6 consultant and the street address (if different) and facsimile number or
7 email address of the consultant where communications from the debtor may
8 be delivered;

9 (7) be dated and personally signed by the borrower and the consultant
10 and be witnessed and acknowledged by a New York notary public; and

11 (8) contain the following notice, which shall be printed in at least
12 fourteen-point boldface type, completed with the name of the provider,
13 and located in immediate proximity to the space reserved for the
14 debtor's signature:

15 "NOTICE REQUIRED BY NEW YORK LAW

16 You may cancel this contract, without any penalty or obligation, at
17 any time before midnight of _____ (fifth business day after
18 execution).

19 _____ (Name of consultant) (the "consultant") or anyone working
20 for the consultant may not take any money from you or ask you for money
21 until the consultant has completely finished doing everything this
22 contract says the consultant will do.

23 You should consider contacting your student loan servicer before sign-
24 ing any legal document concerning your student loan. In addition, you
25 may want to visit the New York State Department of Financial Services'
26 student lending resource center at www.dfs.ny.gov/studentprotection. The
27 law requires that this contract contain the entire agreement between you
28 and the provider. You should not rely upon any other written or oral
29 agreement or promise."

30 The provider shall accurately enter the date on which the right to
31 cancel ends.

32 (b) (1) The borrower has the right to cancel, without any penalty or
33 obligation, any contract with a consultant until midnight of the fifth
34 business day following the day on which the consultant and the borrower
35 sign a consulting contract. Cancellation occurs when the borrower, or a
36 representative of the borrower, either delivers written notice of
37 cancellation in person to the address specified in the consulting
38 contract or sends a written communication by facsimile, by United States
39 mail or by an established commercial letter delivery service. A dated
40 proof of facsimile delivery or proof of mailing creates a presumption
41 that the notice of cancellation has been delivered on the date the
42 facsimile is sent or the notice is deposited in the mail or with the
43 delivery service. Cancellation of the contract shall release the
44 borrower from all obligations to pay fees or any other compensation to
45 the consultant

46 (2) The contract shall be accompanied by two copies of a form,
47 captioned "notice of cancellation" in at least twelve-point bold type.
48 This form shall be attached to the contract, shall be easily detachable,
49 and shall contain the following statement written in the same language
50 as used in the contract, and the contractor shall insert accurate infor-
51 mation as to the date on which the right to cancel ends and the contrac-
52 tor's contact information:

53 "NOTICE OF CANCELLATION

54 Note: You may cancel this contract, without any penalty or obligation,
55 at any time before midnight of _____ (Enter date)

To cancel this contract, sign and date both copies of this cancellation notice and personally deliver one copy or send it by facsimile, United States mail, or an established commercial letter delivery service, indicating cancellation to the Consultant at one of the following:

Name of Consultant _____

Street Address _____

City, State, Zip _____

Facsimile: _____

I hereby cancel this transaction.

Name of Borrower: _____

Signature of Borrower: _____

Date: _____ "

(3) Within ten days following receipt of a notice of cancellation given in accordance with this subdivision, the consultant shall return any original contract and any other documents signed by or provided by the borrower. Cancellation shall release the borrower of all obligations to pay any fees or compensation to the consultant.

§ 705. Penalties and other provisions. (a) If the superintendent finds, after notice and hearing, that a consultant has violated any provision of this article, the superintendent may: (1) make null and void any agreement between the borrower and the consultant; and (2) impose a civil penalty of not more than ten thousand dollars for each violation.

(b) If the consultant violates any provision of this article and the borrower suffers damage because of the violation, the borrower may recover actual and consequential damages and costs from the consultant in an action based on this article. If the consultant intentionally or recklessly violates any provision of this article, the court may award the borrower treble damages, attorneys' fees and costs.

(c) Any provision of a student debt consulting contract that attempts or purports to limit the liability of the consultant under this article shall be null and void. Inclusion of such provision shall at the option of the borrower render the contract void. Any provision in a contract which attempts or purports to require arbitration of any dispute arising under this article shall be void at the option of the borrower. Any waiver of the provisions of this article shall be void and unenforceable as contrary to public policy.

(d) The provisions of this article are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

§ 706. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article.

§ 2. Section 712 of the banking law is amended by adding a new subdivision 3 to read as follows:

3. The department may also require the submission of the fingerprints of the applicant, which may be submitted to the division of criminal justice services and the federal bureau of investigation for state and national criminal history record checks.

§ 3. This act shall take effect immediately, provided, however, that section one of this act shall take effect October 1, 2020.

PART NN

Section 1. Paragraph 2 of subsection (a) of section 104 of the financial services law is amended to read as follows:

(2) "Financial product or service" shall mean: (A) any financial product or financial service offered or provided by any person regulated or required to be regulated by the superintendent pursuant to the banking law or the insurance law or any other financial product or service offered or sold to consumers ~~[except financial products or services: (i) regulated under the exclusive jurisdiction of a federal agency or authority, (ii) regulated for the purpose of consumer or investor protection by any other state agency, state department or state public authority, or (iii) where rules or regulations promulgated by the superintendent on such financial product or service would be preempted by federal law]~~ or small businesses; [and]

(B) the sale or provision to a consumer or small business of any security, investment advice, or money management device;

(C) any warranty sold or provided to a consumer or small business or any guarantee or suretyship provided to a consumer;

(D) any merchant cash advance provided to a consumer or small business; or

(E) any contract involving any provision of subparagraphs (A) through (D) of this paragraph.

"Financial product or service" shall ~~[also]~~ not include ~~[the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default]~~ financial products or services where the rules or regulations promulgated by the superintendent on such financial products or services would be preempted by federal law.

§ 2. Subsection (a) of section 104 of the financial services law is amended by adding a new paragraph 6 to read as follows:

(6) "Small business" shall mean a business which is independently owned and operated, has less than ten million dollars in annual gross receipts or sales, and employs one hundred or less persons.

§ 3. Subsection (a) of section 206 of the financial services law is amended and a new subsection (g) is added to read as follows:

(a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all direct and indirect costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata 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, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end

1 of the fiscal year for which the assessment is made (less return premi-
2 ums and considerations thereon) for policies or contracts of insurance
3 covering property or risks resident or located in this state the issu-
4 ance of which policies or contracts requires a license from the super-
5 intendent. Persons regulated under the banking law shall be assessed by
6 the superintendent for the operating expenses of the department that are
7 solely attributable to regulating persons under the banking law in such
8 proportions as the superintendent shall deem just and reasonable.

9 Persons regulated under this chapter shall be assessed by the super-
10 intendent for the operating expenses of the department that are solely
11 attributable to regulated persons under this chapter in such proportions
12 as the superintendent shall deem just and reasonable. Operating expenses
13 of the department not covered by the assessments set forth above shall
14 be assessed by the superintendent in such proportions as the superinten-
15 dent shall deem just and reasonable upon all domestic insurers and all
16 licensed United States branches of alien insurers domiciled in this
17 state within the meaning of paragraph four of subsection (b) of section
18 seven thousand four hundred eight of the insurance law, and upon any
19 regulated person under this chapter and the banking law, other than
20 mortgage loan originators, except as otherwise provided by sections one
21 hundred fifty-one and two hundred twenty-eight of the workers' compen-
22 sation law and by section sixty of the volunteer firefighters' benefit
23 law. The provisions of this subsection shall not be applicable to a bank
24 holding company, as that term is defined in article three-A of the bank-
25 ing law. Persons regulated under the banking law will not be assessed
26 for expenses that the superintendent deems to benefit solely persons
27 regulated under the insurance law, and persons regulated under the
28 insurance law will not be assessed for expenses that the superintendent
29 deems to benefit solely persons regulated under the banking law.

30 (g) The expenses of every examination of the affairs of any regulated
31 person subject to this chapter, shall be borne and paid by such regu-
32 lated person so examined, but the superintendent, with the approval of
33 the comptroller, may, in the superintendent's discretion for good cause
34 shown, remit such charges.

35 § 4. The financial services law is amended by adding a new section 312
36 to read as follows:

37 § 312. Restitution. In any administrative proceeding or judicial
38 action brought under this chapter, the banking law, or the insurance
39 law, the superintendent may, in addition to any other penalty or sanc-
40 tion imposed by law, order the individual or entity subject to such
41 proceeding or action to make restitution to all consumers harmed by such
42 individual or entity's conduct.

43 § 5. The financial services law is amended by adding a new section 313
44 to read as follows:

45 § 313. Unlicensed actors. Any person or entity that is required by
46 this chapter, the banking law, or the insurance law to be licensed,
47 certified, registered, authorized, chartered, accredited, or incorpo-
48 rated and that is not specifically exempted from such applicable law
49 shall be subject to the laws of this chapter, the banking law, and the
50 insurance law, and the penalties contained therein as if such person or
51 entity was so licensed, certified, registered, authorized, chartered,
52 accredited, or incorporated, even if such person or entity does not
53 possess the required license, certification, registration, authori-
54 zation, charter, accreditation, or incorporation.

55 § 6. Subsection (a) of section 408 of the financial services law is
56 amended to read as follows:

(a) In addition to any civil or criminal liability provided by law, the superintendent may, after notice and hearing, levy a civil penalty:

(1) not to exceed the greater of five thousand dollars ~~[per]~~ for each offense; a multiple of two times the aggregate damages attributable to the offense; or a multiple of two times the aggregate economic gain attributable to the offense for:

(A) any ~~[intentional]~~ fraud, ~~[or intentional]~~ misrepresentation ~~[of a material fact]~~, or unfair, deceptive, or abusive act or practice with respect to a financial product or service or involving any person offering to provide or providing financial products or services or involving any service provider utilized by any person offering to provide or providing financial products or services; or

(B) any violation of state or federal fair debt collection practices or federal or state fair lending laws; ~~[and]~~ or

~~[(2) not to exceed one thousand dollars for]~~ (C) any other violation of this chapter or the regulations issued thereunder, provided that there shall be no civil penalty under this section for violations of article five of this chapter or the regulations issued thereunder; and

~~[(3)]~~ (2) provided, however, that:

(A) penalties for regulated persons under the banking law shall be as provided for in the banking law and penalties for regulated persons under the insurance law shall be as provided for in the insurance law; and

(B) the superintendent shall not impose or collect any penalty under this section in addition to any penalty or fine for the same act or omission that is imposed under the insurance law or banking law; and

(C) nothing in this section shall affect the construction or interpretation of the term "fraud" as it is used in any other provision of the consolidated or unconsolidated law.

§ 7. Paragraph 1 of subsection (c) of section 109 of the insurance law, as amended by section 55 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(1) If the superintendent finds after notice and hearing that any authorized insurer, representative of the insurer, licensed insurance agent, licensed insurance broker, licensed adjuster, or any other person or entity licensed, certified, registered, or authorized pursuant to this chapter, has wilfully violated the provisions of this chapter or any regulation promulgated thereunder, then the superintendent may order the person or entity to pay to the people of this state a penalty in a sum not exceeding ~~[one]~~ ten thousand dollars for each offense.

§ 8. This act shall take effect immediately.

PART 00

Section 1. The banking law is amended by adding a new section 4-d to read as follows:

§ 4-d. Protecting vulnerable adults from financial exploitation. 1. Definitions. As used in this section:

(a) "Banking institution" means any bank, trust company, savings bank, savings and loan association, credit union, or branch of a foreign banking corporation, which is chartered, organized or licensed under the laws of this state or any other state or the United States, and, in the ordinary course of business takes deposit accounts in this state.

(b) "Vulnerable adult" means an individual who, because of mental and/or physical impairment is potentially unable to manage his or her own resources or protect himself or herself from financial exploitation.

1 (c) "Financial exploitation" means: (i) the improper taking, withhold-
2 ing, appropriation, or use of a vulnerable adult's money, assets, or
3 property; or (ii) any act or omission by a person, including through the
4 use of a power of attorney, guardianship, or any other authority regard-
5 ing a vulnerable adult to: (A) obtain control, through deception, intim-
6 idation or undue influence, over the vulnerable adult's money, assets,
7 or property or (B) convert the vulnerable adult's money, assets, or
8 property.

9 (d) "Transaction hold" means a delay in the completion of one or more
10 financial transactions pending an investigation by a banking institu-
11 tion, adult protective services, or a law enforcement agency.

12 (e) "Adult protective services" means the division of the New York
13 City Human Resources Administration and each county's department of
14 human services or department of social services responsible for provid-
15 ing adult protective services pursuant to section four hundred seventy-
16 three of the social services law.

17 (f) "Law enforcement agency" means any agency, including the financial
18 frauds and consumer protection unit of the department of financial
19 services, which is empowered by law to conduct an investigation or to
20 make an arrest for a felony, and any agency which is authorized by law
21 to prosecute or participate in the prosecution of a felony.

22 2. Application of transaction hold. (a) If a banking institution
23 reasonably believes: (i) that financial exploitation of a vulnerable
24 adult may have occurred, may have been attempted, or is being attempted;
25 and (ii) that the placement of a transaction hold may be necessary to
26 protect a vulnerable adult's money, assets, or property from financial
27 exploitation, then the banking institution may, at its discretion, apply
28 a transaction hold on the account of a vulnerable adult, the account on
29 which a vulnerable adult is a beneficiary, including a trust or guardi-
30 anship account, or the account of a person who is reasonably believed by
31 the banking institution to be engaging in the financial exploitation of
32 a vulnerable adult.

33 (b) A banking institution may also apply a transaction hold on the
34 account of a vulnerable adult, the account on which a vulnerable adult
35 is a beneficiary, including a trust or guardianship account, or the
36 account of a person who is reasonably believed by the banking institu-
37 tion to be engaging in the financial exploitation of a vulnerable adult,
38 if: (i) adult protective services or a law enforcement agency provides
39 information to the banking institution establishing a reasonable basis
40 to believe that financial exploitation of a vulnerable adult may have
41 occurred, may have been attempted, or is being attempted; and (ii) the
42 placement of a transaction hold may be necessary to protect a vulnerable
43 adult's money, assets, or property from financial exploitation.

44 (c) A banking institution that applies a transaction hold shall:

45 (i) make a reasonable effort to provide notice, orally or in writing,
46 to all parties authorized to transact business on the account on which a
47 transaction hold was placed within two business days of when the trans-
48 action hold was placed;

49 (ii) immediately, but no later than one business day after the trans-
50 action hold is placed, report the transaction hold, including the basis
51 for the banking institution's belief that the financial exploitation of
52 a vulnerable adult may have occurred, may have been attempted, or is
53 being attempted, to adult protective services and to a law enforcement
54 agency;

55 (iii) at the request of adult protective services or a law enforcement
56 agency, provide all information and documents that relate to the trans-

1 action hold within three business days of the request for the informa-
2 tion or documents; and

3 (iv) notwithstanding the transaction hold, make funds available from
4 the account on which a transaction hold is placed to allow the vulner-
5 able adult or other account holder to meet his or her ongoing obli-
6 gations such as housing and other living expenses or emergency expenses
7 as determined by adult protective services, a law enforcement agency or
8 a not-for-profit organization that regularly provides services to
9 vulnerable adults in the community in which the vulnerable adult
10 resides.

11 (d) During the pendency of a transaction hold, a banking institution
12 may, in its discretion, also make funds available from the account on
13 which a transaction hold is placed to allow the vulnerable adult or
14 other account holder to meet his or her ongoing obligations such as
15 housing and other living expenses or emergency expenses, provided the
16 banking institution does not have a reasonable basis to believe that the
17 dispersal of such funds to the vulnerable adult or other account holder
18 will result in the financial exploitation of the vulnerable adult. Any
19 such dispersal of funds pursuant to this subdivision shall be reported
20 within one business day after the dispersal is made to adult protective
21 services and to a law enforcement agency.

22 (e) The superintendent may adopt regulations identifying the factors
23 that a banking institution should consider in determining whether: (i)
24 the financial exploitation of a vulnerable adult may have occurred, may
25 have been attempted, or is being attempted; and (ii) the placement of a
26 transaction hold is necessary to protect a vulnerable adult's money,
27 assets, or property.

28 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
29 and (d) of this subdivision, a transaction hold that a banking institu-
30 tion places on an account pursuant to this section shall terminate five
31 business days after the date on which the transaction hold is applied by
32 the banking institution. A banking institution may terminate the trans-
33 action hold at any time during this five day period if the banking
34 institution is satisfied that the termination of the transaction hold is
35 not likely to result in financial exploitation of a vulnerable adult.

36 (b) A transaction hold may be extended beyond the period set forth in
37 paragraph (a) of this subdivision for up to an additional fifteen days
38 at the request of either adult protective services or a law enforcement
39 agency.

40 (c) A transaction hold may be extended beyond the periods set forth in
41 paragraphs (a) and (b) of this subdivision only pursuant to an order
42 issued by a court of competent jurisdiction.

43 (d) A transaction hold may be terminated at any time pursuant to an
44 order issued by a court of competent jurisdiction.

45 4. Immunity. A banking institution or an employee of a banking insti-
46 tution shall be immune from criminal, civil, and administrative liabil-
47 ity for all good faith actions in relation to the application of this
48 section including any good faith determination to apply or not apply a
49 transaction hold on an account where there is reasonable basis to
50 conclude:

51 (a) that financial exploitation of a vulnerable adult may have
52 occurred, may have been attempted, or is being attempted; and

53 (b) that the placement of a transaction hold may be necessary to
54 protect a vulnerable adult's money, assets, or property from financial
55 exploitation, such immunity shall not apply to a determination not to
56 apply a transaction hold when the banking institution or employee acts

recklessly or engages in intentional misconduct in making the determination, or the determination results from a conflict of interest.

5. Certification program. The department may develop a financial exploitation certification program for banking institutions. Upon completion of the training components required by the program and after establishing the necessary internal policies, procedures, and in-house training programs, a banking institution shall receive from the department an adult financial exploitation prevention certificate demonstrating that staff at such banking institution have been trained on how to identify, help prevent, and report the financial exploitation of a vulnerable adult. At the discretion of the superintendent, the certification program may be mandatory for banking institutions licensed by the department.

6. Regulations. The superintendent may issue such rules and regulations that provide the procedures for the enforcement of the terms of this section and any other rules and regulations that he or she deems necessary to implement the terms of this section.

§ 2. This act shall take effect October 1, 2020; provided, however, that the superintendent of financial services may promulgate any rules or regulations related to this act immediately.

PART PP

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 30 to read as follows:

TITLE 30

EXPANDED POLYSTYRENE FOAM CONTAINER AND POLYSTYRENE LOOSE FILL PACKAGING BAN

Section 27-3001. Definitions.

27-3003. Expanded polystyrene foam container and polystyrene
loose fill packaging ban.

27-3005. Exemptions.

27-3007. Preemption.

27-3009. Severability.

§ 27-3001. Definitions.

For the purposes of this title, the following terms shall have the
following meanings:

1. "Covered food service provider" means a person engaged in the
primary or secondary business of selling or distributing prepared food
or beverages for on-premise or off-premise consumption including but not
limited to: (a) food service establishments, caterers, temporary food
service establishments, mobile food service establishments, and push-
carts as defined in the New York State Sanitary Code; (b) retail food
stores as defined in article 28 of the agriculture and markets law; (c)
delicatessens; (d) grocery stores; (e) restaurants; (f) cafeterias; (g)
coffee shops; (h) hospitals, adult care facilities, and nursing homes;
and (i) elementary and secondary schools, colleges, and universities.

2. "Disposable food service container" means a bowl, carton, clam-
shell, cup, lid, plate, tray, or any other product that is designed or
used for the temporary storage or transport of a prepared food or beverage
including a container generally recognized by the public as being
designed for single use.

3. "Expanded polystyrene foam" means expanded foam thermoplastics
utilizing a styrene monomer and processed by any number of techniques.
Such term shall not include rigid polystyrene.

4. "Manufacturer" means every person, firm or corporation that produces or imports polystyrene loose fill packaging that is sold, offered for sale, or distributed in the state.

5. "Polystyrene loose fill packaging" means a void-filling packaging product made of expanded polystyrene that is used as a packaging fill, commonly referred to as packing peanuts.

6. "Prepared food" means food or beverages that are cooked, chopped, sliced, mixed, brewed, frozen, heated, squeezed, combined or otherwise prepared on the premises of a covered food service provider for immediate consumption and require no further preparation to be consumed. Prepared food includes but is not limited to ready to eat takeout foods and beverages.

7. "Rigid polystyrene" means plastic packaging made from rigid, polystyrene resin that has not been expanded, extruded, or foamed.

8. "Store" means a retail or wholesale establishment other than a covered food service provider.

§ 27-3003. Expanded polystyrene foam container and polystyrene loose fill packaging ban.

1. (a) Beginning January first, two thousand twenty-two, no covered food service provider or store shall sell, offer for sale, use, or distribute disposable food service containers used to hold prepared food or beverages that contain expanded polystyrene foam.

(b) Beginning January first, two thousand twenty-two, no covered food service provider, manufacturer, or store shall sell, offer for sale, use, or distribute polystyrene loose fill packaging.

2. The department is authorized to:

(a) undertake a review of additional product packaging, and, based on the environmental impacts of such products, promulgate regulations to limit the sale, use, or distribution of such products;

(b) conduct education and outreach in multiple languages to covered food service providers, manufacturers, and stores to inform them of the provisions of this title; and

(c) promulgate any other such rules and regulations as it shall deem necessary to implement the provisions of this title.

§ 27-3005. Exemptions.

Notwithstanding any inconsistent provision of law, this title shall not apply to:

1. Prepackaged food filled or sealed prior to receipt at a covered food service provider; or

2. Raw meat or raw fish sold for the purpose of cooking or preparing off-premises by the customer; or

3. For purposes of the expanded polystyrene foam container ban, covered food service providers that demonstrate undue financial hardship, as determined by the department, provided however that such covered food service providers that have ten or more locations within the state that (a) conduct business under the same business name or (b) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor shall not be eligible for an exemption.

§ 27-3007. Preemption.

1. Except as provided in subdivision two of this section, any local law or ordinance which is inconsistent with any provision of this title or any rule or regulation promulgated hereunder shall be preempted.

2. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the prohibition of expanded polystyrene use or sale or the offering for sale of polystyrene loose fill

packaging, which is inconsistent with the provisions of this title or any rules or regulations promulgated hereunder, shall not be preempted if such local law or ordinance is at least as comprehensive as the provisions of this title or any rules or regulations promulgated hereunder.

§ 27-3009. Severability.

If any clause, sentence, paragraph, section or part of this title 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, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 2. The environmental conservation law is amended by adding a new section 71-2730 to read as follows:

§ 71-2730. Enforcement of title 30 of article 27 of this chapter.

1. Any person who shall violate section 27-3003 of this chapter shall be liable to the state of New York for a civil penalty of not more than two hundred fifty dollars for the first violation, not more than five hundred dollars for the second violation in the same calendar year, not more than one thousand dollars for the third violation in the same calendar year, and not more than two thousand dollars for the fourth and each subsequent violation in the same calendar year. A hearing or opportunity to be heard shall be provided prior to the assessment of any civil penalty.

2. (a) The department, the department of agriculture and markets, the department of health, and the attorney general are hereby authorized to enforce the provisions of section 27-3003 of this chapter.

(b) The provisions of section 27-3003 of this chapter may also be enforced by a village, town, city, or county and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions.

3. Any fines that are collected by the state during proceedings by the state to enforce the provisions of section 27-3003 of this chapter shall be paid into the environmental protection fund established pursuant to section ninety-two-s of the finance law. Any fines that are collected by a municipality during proceedings by the municipality to enforce such provisions within the municipality shall be retained by the municipality.

§ 3. This act shall take effect immediately.

PART QQ

Section 1. The restore mother nature bond act is enacted to read as follows:

ENVIRONMENTAL BOND ACT OF 2020
"RESTORE MOTHER NATURE"

Section 1. Short title.

2. Creation of state debt.

3. Bonds of the state.

4. Use of moneys received.

§ 1. Short title. This act shall be known and may be cited as the "environmental bond act of 2020 restore mother nature".

§ 2. Creation of state debt. The creation of state debt in an amount not exceeding in the aggregate three billion dollars (\$3,000,000,000) is hereby authorized to provide moneys for the single purpose of making environmental improvements that preserve, enhance, and restore New

York's natural resources and reduce the impact of climate change by funding capital projects to: restore habitat and reduce flood risk including wetland, floodplain, and stream restoration and protection, acquisition of real property, enhance shoreline protection, forest preservation, development and improvement of fish hatcheries, and removal, alteration, and right-sizing of dams, bridges, and culverts; improve water quality through wastewater infrastructure improvements and upgrades including green infrastructure projects that reduce stormwater impacts, agricultural nutrient management, and expansion of riparian buffers; protect open space and invest in associated recreational infrastructure including land acquisition, development and improvement of park, campground, nature center, and other state recreational facilities; expand the use of renewable energy to mitigate climate change including, but not limited to, clean energy or resiliency projects; and other such projects that preserve, enhance, and restore the quality of the state's environment.

§ 3. Bonds of the state. The state comptroller is hereby authorized and empowered to issue and sell bonds of the state up to the aggregate amount of three billion dollars (\$3,000,000,000) for the purposes of this act, subject to the provisions of article 5 of the state finance law. The aggregate principal amount of such bonds shall not exceed three billion dollars (\$3,000,000,000) excluding bonds issued to refund or otherwise repay bonds heretofore issued for such purpose; provided, however, that upon any such refunding or repayment, the total aggregate principal amount of outstanding bonds may be greater than three billion dollars (\$3,000,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. The method for calculating present value shall be determined by law.

§ 4. Use of moneys received. The moneys received by the state from the sale of bonds sold pursuant to this act shall be expended pursuant to appropriations for capital projects related to design, planning, site acquisition, demolition, construction, reconstruction, and rehabilitation including but not limited to, projects specified in section two of this act.

§ 2. This act shall take effect immediately, provided that the provisions of section one of this act shall not take effect unless and until this act shall have been submitted to the people at the general election to be held in November 2020 and shall have been approved by a majority of all votes cast for and against it at such election. Upon approval by the people, section one of this act shall take effect immediately. The ballots to be furnished for the use of voters upon submission of this act shall be in the form prescribed by the election law and the proposition or question to be submitted shall be printed thereon in the following form, namely "To address and combat the impact of climate change and damage to the environment, the Environmental Bond Act of 2020 "Restore Mother Nature" authorizes the sale of state bonds up to three billion dollars to fund environmental protection, natural restoration, resiliency, and clean energy projects. Shall the Environmental Bond Act of 2020 be approved?".

PART RR

Section 1. The environmental conservation law is amended by adding a new article 58 to read as follows:

ARTICLE 58

IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2020 "RESTORE MOTHER NATURE"

Section 58-0101. Definitions.

58-0103. Allocation of moneys.

58-0105. Powers and duties.

58-0107. Powers and duties of a municipality.

58-0109. Consistency with federal tax law.

58-0111. Compliance with other law.

§ 58-0101. Definitions.

As used in this article the following terms shall mean and include:

1. "Bonds" shall mean general obligation bonds issued pursuant to the environmental bond act of 2020 "restore mother nature" in accordance with article VII of the New York state constitution and article five of the state finance law.

2. "Cost" means the expense of an approved project, which shall include but not be limited to appraisal, surveying, planning, engineering and architectural services, plans and specifications, consultant and legal services, site preparation, demolition, construction and other direct expenses incident to such project.

3. "Department" shall mean the department of environmental conservation.

4. "Municipality" means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, or any combination thereof.

5. "State assistance payment" means payment of the state share of the cost of projects authorized by this article to preserve, enhance, restore and improve the quality of the state's environment.

6. "State entity" means any state department, division, agency, office, public authority, or public benefit corporation.

§ 58-0103. Allocation of moneys.

The moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2020 "restore mother nature" shall be expended for project costs to: restore habitat and reduce flood risk including, wetland, floodplain, and stream restoration and protection, acquisition of real property, enhance shoreline protection, forest preservation, development and improvement of fish hatcheries, and removal, alteration, and right-sizing of dams, bridges, and culverts; improve water quality through wastewater infrastructure and upgrades including green infrastructure projects that reduce stormwater impacts, agricultural nutrient management and expansion of riparian buffers; protect open space and invest in associated recreational infrastructure including land acquisition, development and improvement of park, campground, nature center, and other state recreational facilities; expand the use of renewable energy to mitigate climate change, including, but not limited to, clean energy or resiliency projects; and other such projects that preserve, enhance, and restore the quality of the state's environment.

§ 58-0105. Powers and duties.

In implementing the provisions of this article the department is hereby authorized to:

1. Administer funds generated pursuant to the environmental bond act of 2020 "restore mother nature".

2. In the name of the state, as further provided within this article, contract to make, within the limitations of appropriations available therefor, state assistance payments toward the cost of a project approved, and to be undertaken pursuant to this article.

3. Approve vouchers for the payments pursuant to an approved contract.

4. Enter into contracts with any person, firm, corporation, not-for-profit corporation, agency or other entity, private or governmental, for the purpose of effectuating the provisions of this article.

5. Promulgate such rules and regulations and to develop such forms and procedures necessary to effectuate the provisions of this article, including but not limited to requirements for the form, content, and submission of applications by municipalities for state financial assistance.

6. Delegate to, or cooperate with, any other state entity in the administration of this article.

7. Perform such other and further acts as may be necessary, proper or desirable to carry out the provisions of this article.

§ 58-0107. Powers and duties of a municipality.

A municipality shall have the power and authority to:

1. Undertake and carry out any project for which state assistance payments pursuant to contract are received or are to be received pursuant to this article and maintain and operate such project.

2. Expend money received from the state pursuant to this article for costs incurred in conjunction with the approved project.

3. Apply for and receive moneys from the state for the purpose of accomplishing projects undertaken or to be undertaken pursuant to this article.

4. Perform such other and further acts as may be necessary, proper or desirable to carry out a project or obligation, duty or function related thereto.

§ 58-0109. Consistency with federal tax law.

All actions undertaken pursuant to this article shall be reviewed for consistency with provisions of the federal internal revenue code and regulations thereunder, in accordance with procedures established in connection with the issuance of any tax exempt bonds pursuant to this article, to preserve the tax exempt status of such bonds.

§ 58-0111. Compliance with other law.

Every recipient of funds to be made available pursuant to this article shall comply with all applicable state, federal and local laws.

§ 2. The state finance law is amended by adding a new section 97-tttt to read as follows:

§ 97-tttt. Restore mother nature bond fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "restore mother nature bond fund".

2. The state comptroller shall deposit into the restore mother nature bond fund all moneys received by the state from the sale of bonds and/or notes for uses eligible pursuant to section four of the environmental bond act of 2020 "restore mother nature".

3. Moneys in the restore mother nature bond fund, following appropriation by the legislature and allocation by the director of the budget, shall be available only for reimbursement of expenditures made from appropriations from the capital projects fund for the purpose of the restore mother nature bond fund, as set forth in the environmental bond act of 2020 "restore mother nature".

1 4. No moneys received by the state from the sale of bonds and/or notes
2 sold pursuant to the environmental bond act of 2020 "restore mother
3 nature" shall be expended for any project until funds therefor have been
4 allocated pursuant to the provisions of this section and copies of the
5 appropriate certificates of approval filed with the chair of the senate
6 finance committee, the chair of the assembly ways and means committee
7 and the state comptroller.

8 § 3. Section 61 of the state finance law is amended by adding a new
9 subdivision 32 to read as follows:

10 32. Thirty years. For the payment of "restore mother nature" projects,
11 as defined in article fifty-eight of the environmental conservation law
12 and undertaken pursuant to a chapter of the laws of two thousand twenty,
13 enacting and constituting the environmental bond act of 2020 "restore
14 mother nature". Thirty years for flood control infrastructure, other
15 environmental infrastructure, wetland and other habitat restoration,
16 water quality projects, acquisition of land, including acquisition of
17 real property, and renewable energy projects. Notwithstanding the fore-
18 going, for the purposes of calculating annual debt service, the state
19 comptroller shall apply a weighted average period of probable life of
20 restore mother nature projects, including any other works or purposes to
21 be financed with state debt. Weighted average period of probable life
22 shall be determined by computing the sum of the products derived from
23 multiplying the dollar value of the portion of the debt contracted for
24 each work or purpose (or class of works or purposes) by the probable
25 life of such work or purpose (or class of works or purposes) and divid-
26 ing the resulting sum by the dollar value of the entire debt after
27 taking into consideration any original issue premium or discount.

28 § 4. If any clause, sentence, paragraph, section or part of this act
29 shall be adjudged by any court of competent jurisdiction to be invalid,
30 such judgment shall not affect, impair or invalidate the remainder ther-
31 eof, but shall be confined in its operation to the clause, sentence,
32 paragraph, section or part thereof directly involved in the controversy
33 in which such judgment shall have been rendered.

34 § 5. This act shall take effect only in the event that section 1 of
35 part XX of a chapter of the laws of 2020, enacting the environmental
36 bond act of 2020 "restore mother nature" is submitted to the people at
37 the general election to be held in November 2020 and is approved by a
38 majority of all votes cast for and against it at such election. Upon
39 such approval, this act shall take effect immediately. Effective imme-
40 diately, the addition, amendment, and/or repeal of any rule or regu-
41 lation necessary for the implementation of the foregoing sections of
42 this act are authorized and directed to be made and completed on or
43 before such effective date.

44 PART SS

45 Section 1. Article 27 of the environmental conservation law is amended
46 by adding a new title 32 to read as follows:

47 TITLE 32

48 PRODUCT STEWARDSHIP

49 Section 27-3201. Definitions.

50 27-3203. Stewardship organization responsibilities.

51 27-3205. Producer responsibilities.

52 27-3207. Retailer and distributor responsibilities.

53 27-3209. Department responsibilities.

54 27-3211. Rules and regulations.

27-3213. Enforcement and penalties.

27-3215. State preemption.

27-3217. Report and criteria for identifying additional covered products or product categories.

27-3219. Severability.

§ 27-3201. Definitions.

As used in this title:

1. "Brand" means a name, symbol, word, or mark that attributes the product to the owner or licensee of the brand as the producer.

2. "Carpet" means a manufactured article that is (i) used in commercial buildings or single or multifamily residential buildings, (ii) affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior feature, and (iii) primarily constructed of a top surface of synthetic or natural face fibers or yarns or tufts attached to a backing system made of synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or residential broadloom carpet, modular carpet tiles, and artificial turf, pad or underlayment used in conjunction with a carpet. "Carpet" does not include handmade rugs, area rugs, or mats.

3. "Collection site" means a permanent location in the state at which discarded covered products may be returned by a consumer.

4. "Consumer" means a person located in the state who purchases, owns, leases, or uses covered products, including but not limited to an individual, a business, corporation, limited partnership, not-for-profit corporation, the state, a public corporation, public school, school district, private or parochial school or board of cooperative educational services or governmental entity.

5. "Covered product" means carpets or mattresses.

6. "Discarded covered product" means covered products that are no longer used for its manufactured purpose.

7. "Distributor" or "wholesaler" means a person who buys or otherwise acquires covered products from another source and sells or offers to sell a covered product to retailers in this state.

8. "Energy recovery" means the process by which all or a portion of solid waste materials are processed or combusted in order to utilize the heat content or other forms of energy derived from such solid waste materials.

9. "Mattress" means any resilient material, or combination of materials, that is designed to be used as a bed. Mattress shall not include:

a. an unattached mattress pad or mattress topper that is intended to be used with, or on top of a mattress;

b. a crib or bassinet mattress or car bed;

c. juvenile products, including: a carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, and the pads for those juvenile products;

d. a water bed or air mattress; or

e. a fold-out sofa bed or futon.

10. "Producer" means any person who manufactures or renovates a covered product that is sold, offered for sale, or distributed in the state under the manufacturer's own name or brand. "Producer" includes:

a. the owner of a trademark or brand under which a covered product is sold, offered for sale, or distributed in this state, whether or not such trademark or brand is registered in the state; and

b. any person who imports a covered product into the United States that is sold or offered for sale in the state and that is manufactured by a person who does not have a presence in the United States.

11. "Product" means an item sold within the state that is deemed eligible by the department for inclusion in this chapter as a covered product.

12. "Product category" means a group of similar products.

13. "Proprietary information" means information that is a trade secret or is production, commercial or financial information, that if disclosed would impair the competitive position of the submitter and would make available information not otherwise publicly available.

14. "Recycling" means to separate, dismantle or process the materials, components or commodities contained in covered products for the purpose of preparing the materials, components or commodities for use or reuse in new products or components. "Recycling" does not include energy recovery or energy generation by means of combustion, or landfill disposal of discarded covered products or discarded product component materials.

15. "Recycling rate" means the percentage of discarded covered products that is managed through recycling or reuse, as defined by this title, and is computed by dividing the amount of discarded covered products collected and recycled or reused by the total amount of discarded covered products collected over a program year.

16. "Retailer" means any person who sells or offers for sale a covered product to a consumer in the state.

17. "Reuse" means donating or selling a discarded covered product back into the market for its original intended use, when the discarded covered product retains its original performance characteristics and can be used for its original purpose.

18. "Sale" or "sell" means a transfer of title to a covered product for consideration, including a remote sale conducted through a sales outlet, catalog, website, or similar electronic means. "Sale" or "sell" includes a lease through which a covered product is provided to a consumer by a producer, distributor, or retailer.

19. "Stewardship organization" means a nonprofit entity representing covered product producers, or other designated representatives who are cooperating with one another, to collectively establish and operate a stewardship program for the purpose of complying with this title.

20. "Stewardship program" means a program financed and implemented by producers, either individually, or collectively through a producer responsibility organization, that provides for, but is not limited to, the collection, transportation, reuse, recycling or proper management through combustion or disposal, or an appropriate combination thereof, of unwanted products.

§ 27-3203. Stewardship organization responsibilities.

1. A stewardship organization shall be created and financed, individually or collectively, by carpet producers, and a mattress stewardship organization shall be created and financed by mattress producers, individually or collectively, to administer stewardship programs on behalf of those respective producers.

2. On or before July first, two thousand twenty-one, a stewardship organization representing the producer of a covered product must submit a stewardship plan to the department on behalf of the producer and receive approval of the plan.

3. A stewardship organization operating a stewardship program must update the stewardship plan every three years, at a minimum, and submit the updated plan to the department for review and approval.

4. The stewardship organization must notify the department within thirty days of any significant changes or modifications to the plan or

1 its implementation. Within thirty days of the notification a written
2 plan amendment must be submitted to the department for review and
3 approval.

4 5. The stewardship plan shall include, at a minimum:

5 a. Certification that the stewardship program will accept for
6 collection all discarded covered products;

7 b. Contact information for each individual representing the steward-
8 ship organization, including the address of the stewardship organization
9 where the department will send any notifications and for service of
10 process, designation of a program manager responsible for administering
11 the program, a list of all producers participating in the stewardship
12 program, and contact information for each producer, including the
13 address for service of process, and the brands covered by the product
14 stewardship program;

15 c. A description of the methods by which discarded covered products
16 will be collected with no charge to any person;

17 d. An explanation of how the stewardship program will, by January
18 first, two thousand twenty-two or six months after stewardship plan
19 approval, achieve, at a minimum, a convenience standard of having at
20 least one collection site in each county of the state, and at least one
21 additional collection site for every fifty thousand residents located in
22 a municipality, that accepts covered products from consumers during
23 normal business hours; however, with respect to a city having a popu-
24 lation of one million or more, after consultation with the appropriate
25 local or regional entity responsible for the collection of solid and
26 hazardous waste, the department may otherwise establish an alternative
27 convenience standard. Convenience standards will be evaluated by the
28 department periodically and the department may require additional
29 collection locations to ensure adequate consumer convenience;

30 e. A description of how the effectiveness of the stewardship program
31 will be monitored, evaluated, and maintained;

32 f. The names and locations of collection sites, transporters, and
33 processors who will manage discarded covered products;

34 g. A description of how the discarded covered products will be safely
35 and securely transported, tracked, and handled from collection through
36 final recycling and processing;

37 h. A description of the methods to be used to reuse or recycle
38 discarded covered products to ensure that the components, to the extent
39 feasible, are transformed or remanufactured into finished products for
40 use;

41 i. A description of the methods to be used to manage or dispose of
42 discarded covered products that cannot be recycled or reused;

43 j. A description of the outreach and educational materials that must
44 be provided to consumers, retailers, collection sites, and transporters
45 of discarded covered products, and how such outreach will be evaluated
46 for effectiveness;

47 k. An up-to-date stewardship organization website and toll-free tele-
48 phone number through which a consumer can easily learn how and where to
49 recycle their discarded covered products;

50 l. An annual performance goal, as determined by the department,
51 including an estimate of the percentage of discarded covered products
52 that will be collected, reused, and recycled during each year for the
53 next three years of the stewardship plan;

54 m. An evaluation of the status of end markets for discarded covered
55 products and what, if any, additional end markets are needed to improve
56 the functioning of the programs; and

n. A funding mechanism that demonstrates sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan.

6. By July first, two thousand twenty-three, and by July first of each year thereafter, the stewardship organization shall submit a report to the department that includes, for the previous program year, a description of the stewardship program, including, but not limited to, the following:

a. a description of the methods used to collect, transport, and process discarded covered products in regions of the state;

b. identification of all collection sites in the state;

c. the weight of all discarded covered products collected and reused or recycled in all regions of the state;

d. an evaluation of whether the performance goals and recycling rates established in the stewardship plan have been achieved;

e. an estimated weight of discarded covered products and any component materials that were collected pursuant to the stewardship plan, but not recycled; and

f. any other information required by regulation promulgated by the department.

7. A stewardship organization shall pay the department, the following fees, which shall be adequate to cover the department's full costs of administering and enforcing the stewardship program and shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this title:

a. an annual administrative fee to be established by the department in regulations; and

b. a one-time fee of five thousand dollars for a plan covering an individual producer, or ten thousand dollars for a plan for producers acting collectively, upon submission of an initial stewardship plan.
§ 27-3205. Producer responsibilities.

1. By January first, two thousand twenty-two, each producer shall, individually or collectively, through a stewardship organization, implement and finance a statewide stewardship program that:

a. manages covered products by reducing its waste generation;

b. promotes covered product recycling and reuse or mattress recycling and reuse; and

c. provides for negotiation and execution of agreements to collect, transport, process, and market the producer's discarded covered products for end-of-life recycling, reuse, or disposal.

2. No producer may sell or offer for sale covered products in the state unless the producer is part of a stewardship organization, or individually, operates a stewardship program in compliance with the provisions of this title.

3. The stewardship program must be free to the consumer, convenient and adequate to serve the needs of businesses and residents in all areas of the state on an ongoing basis.

§ 27-3207. Retailer and distributor responsibilities.

1. Beginning January first, two thousand twenty-three, no retailer or distributor may sell or offer for sale covered products in the state unless the producer of such covered product is participating in a stewardship program.

2. Any retailer or distributor may participate, on a voluntary basis, as a designated collection point pursuant to a product stewardship program and in accordance with applicable law.

1 3. No retailer or distributor shall be found to be in violation of
2 this section if, on the date the covered products were ordered from the
3 producer or its agent, the producer was listed as compliant with this
4 title on the department's website.

5 § 27-3209. Department responsibilities.

6 1. Upon stewardship plan approval, the department shall post informa-
7 tion on its website about the stewardship organizations and its partic-
8 ipating producers who are in compliance with this title.

9 2. Beginning January first, two thousand twenty-two, the department
10 shall post on its website the location of all collection sites identi-
11 fied to the department by the stewardship organization in its plans and
12 annual reports.

13 3. The department shall post on its website each stewardship plan
14 approved by the department.

15 4. Within sixty days after receipt of a proposed stewardship plan or
16 plan amendment, the department shall approve or reject the plan or the
17 plan amendment. If the plan or plan amendment is approved, the depart-
18 ment shall notify the stewardship organization in writing. If the
19 department rejects the plan or plan amendment, the department shall
20 notify the stewardship organization in writing stating the reason for
21 rejecting the plan or plan amendment. A stewardship organization whose
22 plan is rejected must submit a revised plan to the department within
23 thirty days of receiving a notice of rejection.

24 5. The department shall deposit the fees collected pursuant to this
25 title into the stewardship organization fund as established pursuant to
26 section ninety-two-jj of the state finance law.

27 § 27-3211. Rules and regulations.

28 The department is authorized to promulgate any rules and regulations
29 necessary to implement this title.

30 § 27-3213. Enforcement and penalties.

31 1. Except as otherwise provided in this section, any person or entity
32 that violates any provision of or fails to perform any duty imposed
33 pursuant to this title or any rule or regulation promulgated pursuant
34 thereto, or any term or condition of any registration or permit issued
35 pursuant thereto, or any final determination or order of the commission-
36 er made pursuant to this article or article seventy-one of this chapter
37 shall be liable for a civil penalty not to exceed five hundred dollars
38 for each violation and an additional penalty of not more than five
39 hundred dollars for each day during which such violation continues.

40 2. Any retailer or distributor who violates any provision of or fails
41 to perform any duty imposed pursuant to this title or any rule or regu-
42 lation promulgated pursuant thereto, or any term or condition of any
43 registration or permit issued pursuant thereto, or any final determi-
44 nation or order of the commissioner made pursuant to this article or
45 article seventy-one of this chapter shall be liable for a civil penalty
46 not to exceed one thousand dollars for each violation and an additional
47 penalty of not more than one thousand dollars for each day during which
48 such violation continues.

49 3. a. Any producer or stewardship organization who violates any
50 provision of or fails to perform any duty imposed pursuant to this title
51 or any rule or regulation promulgated pursuant thereto, or any term or
52 condition of any registration or permit issued pursuant thereto, or any
53 final determination or order of the commissioner made pursuant to this
54 article or article seventy-one of this chapter shall be liable for a
55 civil penalty not to exceed five thousand dollars for each violation and
56 an additional penalty of not more than one thousand five hundred dollars

1 for each day during which such violation continues. For a second
2 violation committed within twelve months of a prior violation, the
3 producer or stewardship organization shall be liable for a civil penalty
4 not to exceed ten thousand dollars and an additional penalty of not more
5 than three thousand dollars for each day during which such violation
6 continues. For a third or subsequent violation committed within twelve
7 months of any prior violation, the producer or stewardship organization
8 shall be liable for a civil penalty of not to exceed twenty thousand
9 dollars and an additional penalty of six thousand dollars for each day
10 during which such violation continues.

11 b. All producers participating in a stewardship organization shall be
12 jointly and severally liable for any penalties assessed against the
13 stewardship organization pursuant to this title and article seventy-one
14 of this chapter.

15 4. Civil penalties under this section shall be assessed by the depart-
16 ment after an opportunity to be heard pursuant to the provisions of
17 section 71-1709 of this chapter, or by the court in any action or
18 proceeding pursuant to section 71-2727 of this chapter, and in addition
19 thereto, such person or entity may by similar process be enjoined from
20 continuing such violation and any permit, registration or other approval
21 issued by the department may be revoked or suspended or a pending
22 renewal denied.

23 5. The department and the attorney general are hereby authorized to
24 enforce the provisions of this title and all monies collected shall be
25 deposited to the credit of the environmental protection fund established
26 pursuant to section ninety-two-s of the state finance law.

27 § 27-3215. State preemption.

28 Jurisdiction in all matters pertaining to covered products recycling
29 is, by this title, vested exclusively in the state. Any provision of any
30 local law or ordinance, or any rule or regulation promulgated thereto,
31 governing covered product recycling shall, upon the effective date of
32 this title, be preempted; provided however, that nothing in this section
33 shall preclude a person from coordinating, for recycling or reuse, the
34 collection of covered products.

35 § 27-3217. Report and criteria for identifying additional covered
36 products or product categories.

37 1. The department shall by November first, two thousand twenty-two,
38 and biannually thereafter, publish:

39 a. a review and evaluation of the performance of existing stewardship
40 programs in the state;

41 b. legislative recommendations the department would propose to improve
42 existing stewardship programs; and

43 c. recommendations for establishing new stewardship programs. The
44 department may identify a product or product category as a candidate for
45 a stewardship program if it is determined after evaluation of each of
46 the following that:

47 (i) a stewardship program for the product or product category will
48 increase the recovery of materials for reuse and recycling and reduce
49 the need for use of virgin materials;

50 (ii) a stewardship program for the product or product category will
51 reduce the costs of waste management to local governments and taxpayers;

52 (iii) a stewardship program for the product or product category will
53 enhance energy conservation or mitigate climate change impacts;

54 (iv) a stewardship program for the product or product category will be
55 beneficial for existing and new businesses and infrastructure to manage

1 the products and lead to the development of new industries to utilize
2 the recovered materials;

3 (v) there exists public demand for a stewardship program for the prod-
4 uct or product category;

5 (vi) there is success in collecting and processing similar types of
6 products in programs in other states or countries; or

7 (vii) existing voluntary stewardship programs for the product or prod-
8 uct category in the state are not effective in achieving the policy of
9 this chapter.

10 2. At least thirty days prior to publishing the report pursuant to
11 subdivision one of this section the department shall post the report on
12 its publicly accessible website. Within that period, a person may submit
13 to the department written comments regarding the report.

14 § 27-3219. Severability.

15 The provisions of this title shall be severable and if any phrase,
16 clause, sentence or provision of this title, or the applicability there-
17 of to any person or circumstance shall be held invalid, the remainder of
18 this title and the application thereof shall not be affected thereby.

19 § 2. The state finance law is amended by adding a new section 92-jj to
20 read as follows:

21 § 92-jj. Stewardship organization fund. 1. There is hereby established
22 in the joint custody of the state comptroller and the commissioner of
23 the department of taxation and finance a special fund to be known as the
24 "stewardship organization fund".

25 2. The stewardship organization fund shall consist of all revenue
26 collected from fees pursuant to title thirty-two of article twenty-seven
27 of the environmental conservation law and any cost recoveries or other
28 revenues collected pursuant to title thirty-two of article twenty-seven
29 of the environmental conservation law, and any other monies deposited
30 into the fund pursuant to law.

31 3. Moneys of the fund, following appropriation by the legislature,
32 shall be used for execution of stewardship organization program adminis-
33 tration pursuant to title thirty-two of article twenty-seven of the
34 environmental conservation law, and expended for the purposes as set
35 forth in title thirty-two of article twenty-seven of the environmental
36 conservation law.

37 § 3. This act shall take effect immediately.

38 PART TT

39 Section 1. The opening paragraph of subdivision 1 and subdivision 2 of
40 section 24-0107 of the environmental conservation law, as amended by
41 chapter 654 of the laws of 1977, are amended to read as follows:

42 "Freshwater wetlands" means lands and waters of the state [~~as shown on~~
43 ~~the freshwater wetlands map which~~] that have an area of at least twelve
44 and four-tenths acres in size, or if less than twelve and four-tenths
45 acres are of unusual importance; and contain any or all of the follow-
46 ing:

47 2. "Freshwater wetlands map" shall mean a map [~~promulgated~~] developed
48 by the department pursuant to section 24-0301 of this article on which
49 are indicated the boundaries of any freshwater wetlands. ~~These maps will~~
50 serve the purpose of educating the public on the approximate location of
51 wetlands. These maps are for educational purposes only and are not
52 controlling for purposes of determining if a wetlands permit is required
53 pursuant to section 24-0701 of this article.

§ 2. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environmental conservation law are REPEALED.

§ 3. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental conservation law, subdivision 6 as amended by chapter 16 of the laws of 2010 and subdivision 7 as amended and subdivision 8 as added by chapter 645 of the laws of 1977, are amended to read as follows:

~~[6-]~~ 1. Except as provided in subdivision ~~[eight]~~ three of this section, the commissioner shall supervise the maintenance of ~~[such boundary]~~ freshwater wetlands maps, which shall be available to the public ~~[for inspection and examination at the regional office of the department in which the wetlands are wholly or partly located and in the office of the clerk of each county in which each such wetland or a portion thereof is located]~~ on the department's website. The commissioner may readjust the map ~~[thereafter to clarify the boundaries of the wetlands, to correct any errors on the map, to effect any additions, deletions or technical changes on the map, and to reflect changes as have occurred as a result of the granting of permits pursuant to section 24-0703 of this article, or natural changes which may have occurred through erosion, accretion, or otherwise. Notice of such readjustment shall be given in the same manner as set forth in subdivision five of this section for the promulgation of final freshwater wetlands maps. In addition, at the time notice is provided pursuant to subdivision five of this section, the commissioner shall update any digital image of the map posted on the department's website to reflect such readjustment]~~ at any time to more accurately depict the approximate location of wetlands.

~~[7-]~~ 2. Except as provided in subdivision ~~[eight]~~ three of this section, the commissioner may, upon his own initiative, and shall, upon a written request by a landowner whose land or a portion thereof may be included within a wetland, or upon the written request of another person or persons or an official body whose interests are shown to be affected, cause to be delineated ~~[more precisely]~~ the boundary line or lines of a freshwater wetland or a portion thereof. ~~[Such more precise delineation of a freshwater wetland boundary line or lines shall be of appropriate scale and sufficient clarity to permit the ready identification of individual buildings and of other major man-made structures or facilities or significant geographical features with respect to the boundary of any freshwater wetland.]~~ The commissioner shall undertake to delineate the boundary of a particular wetland or wetlands, or a particular part of the boundary thereof only upon a showing by the applicant therefor of good cause for such ~~[more precise]~~ delineation and the establishment of such ~~[more precise]~~ line.

~~[8-]~~ 3. The supervision of the maintenance of any freshwater wetlands map or portion thereof applicable to wetlands within the Adirondack park, the readjustment and precise delineation of wetland boundary lines and the other functions and duties ascribed to the commissioner by subdivisions ~~[six and seven]~~ one and two of this section shall be performed by the Adirondack park agency, which shall make such maps available ~~[for public inspection and examination at its headquarters]~~ on the agency's website.

§ 4. Subdivisions 1 and 4 of section 24-0701 of the environmental conservation law, subdivision 1 as amended by chapter 654 of the laws of 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979, are amended to read as follows:

1. ~~[After issuance of the official freshwater wetlands map of the state, or of any selected section or region thereof, any]~~ Any person desiring to conduct on freshwater wetlands ~~[as so designated thereon]~~

1 any of the regulated activities set forth in subdivision two of this
2 section must obtain a permit as provided in this title.

3 4. ~~[The]~~ On lands in active agricultural use, the activities of farm-
4 ers and other landowners in grazing and watering livestock, making
5 reasonable use of water resources, harvesting natural products of the
6 wetlands, selectively cutting timber, draining land or wetlands for
7 growing agricultural products and otherwise engaging in the use of
8 wetlands or other land for growing agricultural products shall be
9 excluded from regulated activities and shall not require a permit under
10 subdivision one ~~[hereof]~~ of this section, except that structures not
11 required for enhancement or maintenance of the agricultural productivity
12 of the land and any filling activities shall not be excluded hereunder,
13 and provided that the use of land ~~[designated as a freshwater wetland~~
14 ~~upon the freshwater wetlands map at the effective date thereof]~~ that
15 meets the definition of a freshwater wetland in section 24-0107 of this
16 article for uses other than those referred to in this subdivision shall
17 be subject to the provisions of this article.

18 § 5. Subdivision 5 of section 24-0703 of the environmental conserva-
19 tion law, as amended by section 38 of part D of chapter 60 of the laws
20 of 2012, is amended to read as follows:

21 5. ~~[Prior to the promulgation of the final freshwater wetlands map in~~
22 ~~a particular area and the implementation of a freshwater wetlands~~
23 ~~protection law or ordinance, no person shall conduct, or cause to be~~
24 ~~conducted, any activity for which a permit is required under section~~
25 ~~24-0701 of this title on any freshwater wetland unless he has obtained a~~
26 ~~permit from the commissioner under this section.]~~ Any person may inquire
27 of the department as to whether or not a given parcel of land ~~[will be~~
28 ~~designated]~~ includes a freshwater wetland subject to regulation. The
29 department shall give a definite answer in writing within ~~[thirty]~~ sixty
30 days of such request as to ~~[whether]~~ the status of such parcel ~~[will or~~
31 ~~will not be so designated]~~. Provided that, in the event that weather or
32 ground conditions prevent the department from making a determination
33 within ~~[thirty]~~ sixty days, it may extend such period until a determi-
34 nation can be made. Such answer in the affirmative shall be reviewable;
35 such an answer in the negative shall be a complete defense to the
36 enforcement of this article as to such parcel of land. ~~[The commissioner~~
37 ~~may by regulation adopted after public hearing exempt categories or~~
38 ~~classes of wetlands or individual wetlands which he determines not to be~~
39 ~~critical to the furtherance of the policies and purposes of this arti-~~
40 ~~cle.]~~

41 § 6. Subdivision 1 of section 24-0901 of the environmental conserva-
42 tion law, as added by chapter 614 of the laws of 1975, is amended to
43 read as follows:

44 1. ~~[Upon completion of the freshwater wetlands map, the]~~ The commis-
45 sioner shall confer with local government officials in each region in
46 which the inventory has been conducted to establish a program for the
47 protection of the freshwater wetlands of the state.

48 § 7. Subdivisions 1 and 5 of section 24-0903 of the environmental
49 conservation law, as added by chapter 614 of the laws of 1975, are
50 amended to read as follows:

51 1. ~~[Upon completion of the freshwater wetlands map of the state, or of~~
52 ~~any selected section or region thereof, the]~~ The commissioner shall
53 ~~[proceed to]~~ classify freshwater wetlands ~~[so designated thereon]~~ regu-
54 lated pursuant to section 24-0701 of this article according to their
55 most appropriate uses, in light of the values set forth in section
56 24-0105 of this article and the present conditions of such wetlands. The

1 commissioner shall determine what uses of such wetlands are most compat-
2 ible with the foregoing and shall prepare minimum land use regulations
3 to permit only such compatible uses. The classifications may cover
4 freshwater wetlands in more than one governmental subdivision. Permits
5 pursuant to section 24-0701 of this article are required whether or not
6 a classification has been promulgated.

7 5. Prior to the adoption of any land use regulations governing fresh-
8 water wetlands, the commissioner shall hold a public hearing thereon in
9 the area in which the affected freshwater wetlands are located, and give
10 fifteen days prior notice thereof by posting on the department's website
11 or by publication at least once in a newspaper having general circu-
12 lation in the area of the local government involved. The commissioner
13 shall promulgate the regulations within thirty days of such hearing and
14 post such order on the department's website or publish such order [~~at~~
15 ~~least once~~] in a newspaper having general circulation in the area of the
16 local government affected and make such plan available for public
17 inspection and review; such order shall not take effect until thirty
18 days after the filing thereof with the clerk of the county in which such
19 wetland is located.

20 § 8. Subdivisions 2 and 3 of section 34-0104 of the environmental
21 conservation law, as added by chapter 841 of the laws of 1981, are
22 amended to read as follows:

23 2. Upon completion of a preliminary identification of an erosion
24 hazard area, the commissioner or his designated hearing officer shall
25 hold a public hearing in a place reasonably accessible to residents of
26 the affected area in order to afford an opportunity for any person to
27 propose changes in such preliminary identification. The commissioner
28 shall [~~give notice of such hearing to each owner of record, as shown on~~
29 ~~the latest completed tax assessment rolls, of lands included within such~~
30 ~~area, and also to the chief executive officer and clerk of each local~~
31 ~~government within the boundaries of which any portion of such area may~~
32 ~~be located, by certified mail at least thirty days prior to the date set~~
33 ~~for such hearing, and shall~~] insure that a copy of the preliminary iden-
34 tification is available for public inspection at a convenient location
35 [~~in such local government~~]. The commissioner shall also cause notice of
36 such hearing to be published at least once, not more than thirty days
37 nor fewer than ten days before the date set for such hearing, in at
38 least one newspaper having general circulation in the area involved and
39 in the environmental notice publication provided for under section
40 3-0306 of this chapter.

41 3. After considering the testimony given at such hearings and the
42 potential erosion hazard in accordance with the purposes and policies of
43 this article, and after consultation with affected local governments,
44 the commissioner shall issue the final identification of the erosion
45 hazard areas. Such final identification shall not be made less than
46 sixty days from the date of the public hearing required by subdivision
47 two hereof. A copy of such final identification shall be filed in the
48 office of the clerk of each local government in which such area or any
49 portion thereof is located. Notice [~~that such final identification has~~
50 ~~been made shall be given each owner of lands included within the erosion~~
51 ~~hazard area, as such ownership is shown on the latest completed tax~~
52 ~~assessment rolls, by certified mail in any case where a notice by certi-~~
53 ~~fied mail was not sent pursuant to subdivision two of this section, and~~
54 ~~in all other cases by first class mail. Such notice~~] shall also be given
55 at such time to the chief executive officer of each local government

1 within the boundaries of which such erosion hazard area or any portion
2 thereof is located.

3 § 9. Paragraphs (a) and (b) of subdivision 8 of section 70-0117 of the
4 environmental conservation law, as added by section 1 of part AAA of
5 chapter 59 of the laws of 2009, are amended to read as follows:

6 (a) All persons required to obtain a permit from the department pursu-
7 ant to section 24-0701 of this chapter shall submit to the department an
8 application fee in an amount ~~[not to exceed the following:]~~

9 ~~(i) fifty dollars per application for a permit for a minor project as~~
10 ~~defined in this article or modification to any existing permit issued~~
11 ~~pursuant to section 24-0701 of this chapter,~~

12 ~~(ii) fifty dollars per application for a permit for a residential~~
13 ~~project defined as associated with one single family dwelling and~~
14 ~~customary appurtenances thereto,~~

15 ~~(iii) one hundred dollars per application for multiple family dwelling~~
16 ~~and customary appurtenances thereto,~~

17 ~~(iv) two hundred dollars per application for a permit for any other~~
18 ~~project as defined in this article]~~ specified in regulations promulgated
19 by the department.

20 (b) All persons required to obtain a permit from the department pursu-
21 ant to section 25-0402 of this chapter shall submit to the department an
22 application fee in an amount ~~[not to exceed the following:]~~

23 ~~(i) two hundred dollars per application for a permit for a minor~~
24 ~~project as defined in this article or modification to any existing~~
25 ~~permit issued pursuant to section 25-0402 of this chapter,~~

26 ~~(ii) nine hundred dollars per application for a permit for a project~~
27 ~~as defined in this article]~~ specified in regulations promulgated by the
28 department.

29 § 10. Paragraph (c) of subdivision 8 of section 70-0117 of the envi-
30 ronmental conservation law, as added by section 1 of part AAA of chapter
31 59 of the laws of 2009, is amended to read as follows:

32 (c) ~~[All fees]~~ Fees collected pursuant to ~~[this]~~ paragraph (a) of this
33 subdivision shall be deposited [into the environmental protection fund
34 pursuant to section ninety-two-s of the state finance law] to the credit
35 of the conservation fund. Fees collected pursuant to paragraph (b) of
36 this subdivision shall be deposited to the credit of the marine
37 resources account of the conservation fund.

38 (d) Application fees required pursuant to this subdivision will not be
39 required for any state department.

40 § 11. The title heading of title 25 of article 71 of the environmental
41 conservation law, as added by chapter 182 of the laws of 1975, is
42 amended to read as follows:

43 ENFORCEMENT OF ARTICLE 25 AND ARTICLE 34

44 § 12. Section 71-2501 of the environmental conservation law, as added
45 by chapter 182 of the laws of 1975, is amended to read as follows:

46 § 71-2501. Applicability of this title.

47 The provisions of this title shall be applicable to the enforcement of
48 article twenty-five and article thirty-four.

49 § 13. Subdivisions 1 and 2 of section 71-2503 of the environmental
50 conservation law, as amended by chapter 666 of the laws of 1989, are
51 amended to read as follows:

52 1. Administrative sanctions.

53 a. Any person who violates, disobeys or disregards any provision of
54 article twenty-five or article thirty-four shall be liable to the people
55 of the state for a civil penalty of not to exceed ten thousand dollars

1 for every such violation, to be assessed, after a hearing or opportunity
2 to be heard, by the commissioner. Each violation shall be a separate and
3 distinct violation and, in the case of a continuing violation, each
4 day's continuance thereof shall be deemed a separate and distinct
5 violation. The penalty may be recovered in an action brought by the
6 commissioner in any court of competent jurisdiction. Such civil penalty
7 may be released or compromised by the commissioner before the matter has
8 been referred to the attorney general; and where such matter has been
9 referred to the attorney general, any such penalty may be released or
10 compromised and any action commenced to recover the same may be settled
11 and discontinued by the attorney general with the consent of the commis-
12 sioner.

13 b. Upon determining that significant damage to the functions and bene-
14 fits of tidal wetlands or coastal erosion hazard areas is occurring or
15 is imminent as a result of any violation of article twenty-five or arti-
16 cle thirty-four, including but not limited to (i) activity taking place
17 requiring a permit under article twenty-five or article thirty-four but
18 for which no permit has been granted or (ii) failure on the part of a
19 permittee to adhere to permit conditions, the commissioner shall have
20 power to direct the violator to cease and desist from violating the act.
21 In such cases the violator shall be provided an opportunity to be heard
22 within ten days of receipt of the notice to cease and desist.

23 c. Following a hearing held pursuant to section 71-1709 of this arti-
24 cle, the commissioner shall have power to direct the violator to cease
25 and desist from violating the act and to restore the affected tidal
26 wetland or area immediately adjacent thereto or coastal erosion hazard
27 areas to its condition prior to the violation, insofar as that is possi-
28 ble within a reasonable time and under the supervision of the commis-
29 sioner. Any order of the commissioner shall be enforceable in an action
30 brought by the commissioner in any court of competent jurisdiction. Any
31 civil penalty or order issued by the commissioner under this subdivision
32 shall be reviewable in a proceeding under article seventy-eight of the
33 civil practice law and rules.

34 2. Criminal sanctions. Any person who violates any provision of arti-
35 cle twenty-five or article thirty-four shall, in addition, for the first
36 offense, be guilty of a violation punishable by a fine of not less than
37 five hundred nor more than five thousand dollars; for a second and each
38 subsequent offense such person shall be guilty of a misdemeanor punisha-
39 ble by a fine of not less than one thousand nor more than ten thousand
40 dollars or a term of imprisonment of not less than fifteen days nor more
41 than six months or both. In addition to or instead of these punishments,
42 any offender shall be punishable by being ordered by the court to
43 restore the affected tidal wetland or area immediately adjacent thereto
44 or coastal erosion hazard areas to its condition prior to the offense,
45 insofar as that is possible. The court shall specify a reasonable time
46 for the completion of the restoration, which shall be effected under the
47 supervision of the commissioner. Each offense shall be a separate and
48 distinct offense and, in the case of a continuing offense, each day's
49 continuance thereof shall be deemed a separate and distinct offense.

50 § 14. Section 71-2505 of the environmental conservation law, as
51 amended by chapter 249 of the laws of 1997, is amended to read as
52 follows:

53 § 71-2505. Enforcement.

54 The attorney general, on his or her own initiative or at the request
55 of the commissioner, shall prosecute persons who violate article twen-
56 ty-five or article thirty-four. In addition the attorney general, on

1 his or her own initiative or at the request of the commissioner, shall
2 have the right to recover a civil penalty of up to ten thousand dollars
3 for every violation of any provision of such [~~article~~] articles, and to
4 seek equitable relief to restrain any violation or threatened violation
5 of such [~~article~~] articles and to require the restoration of any
6 affected tidal wetland or area immediately adjacent thereto or coastal
7 erosion hazard area to its condition prior to the violation, insofar as
8 that is possible, within a reasonable time and under the supervision of
9 the commissioner. In the case of a continuing violation, each day's
10 continuance thereof shall be deemed a separate and distinct violation.

11 § 15. Section 71-2507 of the environmental conservation law, as added
12 by chapter 182 of the laws of 1975, is amended to read as follows:

13 § 71-2507. Pollution of tidal wetlands or coastal erosion hazard area.

14 Where any tidal wetlands or coastal erosion hazard area are subject to
15 pollution, the commissioner and attorney general shall take all appro-
16 priate action to abate the pollution. In addition, the commissioner may
17 restrict or order cessation of solid waste disposal, deep well disposal,
18 or liquid waste disposal where such is polluting a given area of tidal
19 wetland or coastal erosion hazard area. Where pesticides, chemical
20 products, or fertilizer residues are the polluting agents, the commis-
21 sioner shall confer with other appropriate public officials to limit the
22 use of such substances at their source; after appropriate consultations,
23 the commissioner may make such rules and regulations as he deems neces-
24 sary under section 3-0301 of [~~the environmental conservation law~~] this
25 chapter.

26 § 16. This act shall take effect immediately, provided, however, that
27 sections one, two, three, four, five, six, seven, eight and nine of this
28 act shall take effect on January 1, 2022, except that any rule or regu-
29 lation necessary for the timely implementation of this act on its effec-
30 tive date shall be promulgated on or before such date.

31 PART UU

32 Section 1. This act enacts into law components of legislation which
33 are necessary to implement legislation relating to the Bay Park Convey-
34 ance Project. Each component is wholly contained within a Subpart iden-
35 tified as Subparts A through C. The effective date for each particular
36 provision contained within such Subpart is set forth in the last section
37 of such Subpart. Any provision in any section contained within a
38 Subpart, including the effective date of the Subpart, which makes a
39 reference to a section "of this act", when used in connection with that
40 particular component, shall be deemed to mean and refer to the corre-
41 sponding section of the Subpart in which it is found. Section three of
42 this act sets forth the general effective date of this act.

43 SUBPART A

44 Section 1. The county of Nassau, is hereby authorized, acting by and
45 through the county legislature of such county, and the department of
46 environmental conservation, acting by and through the commissioner of
47 such department or his or her designee, for the purpose of constructing,
48 operating, maintaining and repairing a sub-surface sewer main, are here-
49 by authorized to establish (a) permanent easements upon and under the
50 parklands described in sections four, five, seven, eight, ten and eleven
51 of this act, and (b) temporary easements upon and under the parklands
52 described in sections three, six, and nine of this act. Authorization

1 for the temporary easements described in sections three, six, and nine
2 of this act shall cease upon the completion of the construction of such
3 sewer main, at which time the department of environmental conservation
4 shall restore the surface of the parklands disturbed and the parklands
5 shall continue to be used for park purposes as they were prior to the
6 establishment of such temporary easements. Authorization for the perma-
7 nent easements described in sections four, five, seven, eight, ten and
8 eleven of this act shall require that the department of environmental
9 conservation restore the surface of the parklands disturbed and the
10 parklands shall continue to be used for park purposes as they were prior
11 to the establishment of the permanent easements.

12 § 2. The authorization granted in section one of this act shall be
13 effective only upon the condition that the county of Nassau dedicate an
14 amount equal to or greater than the fair market value of the permanent
15 and temporary easements being conveyed and the temporary alienation
16 pursuant to section one of this act to the acquisition of new parklands
17 and/or capital improvements to existing park and recreational facili-
18 ties.

19 § 3. TEMPORARY EASEMENT - Force main shaft construction area. Park-
20 land upon and under which a temporary easement may be established pursu-
21 ant to subdivision (b) of section one of this act is described as all
22 that certain plot, piece or parcel of land with buildings and improve-
23 ments thereon erected, situate, lying and being located at Bay Park,
24 Town of Hempstead, County of Nassau and State of New York being more
25 particularly bounded and described as follows: beginning at a point on
26 the northerly line of the Nassau County Sewage Treatment Plant property,
27 said Point of Beginning being South 68°00' East, as measured along
28 northerly line of said sewage treatment plant, 543 feet plus or minus,
29 from the intersection of the northerly line Nassau County Sewage Treat-
30 ment Plant with the westerly side of Compton Street; running thence
31 South 68°00' East, along the northerly line of said sewage treatment
32 plant, 247 feet plus or minus; thence South 07°04' West 196 feet plus or
33 minus; thence North 78°37' West 33 feet plus or minus; thence North
34 06°10' East 105 feet plus or minus; thence North 30°53' West 56 feet
35 plus or minus; thence North 64°27' West 190 feet plus or minus; thence
36 North 20°21' East 49 feet plus or minus, to the northerly line of the
37 Nassau County Sewage Treatment Plant, at the Point of Beginning.
38 Containing within said bounds 19,700 square feet plus or minus. The
39 above described temporary easement is for the construction of a thirty-
40 foot diameter access shaft. The location of said access shaft is more
41 particularly described in section four of this act. Said parcel being
42 part of property designated as Section: 42 Block: A Lots: 50, 57 on the
43 Nassau County Land and Tax Map.

44 § 4. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
45 under which a permanent easement may be established pursuant to subdivi-
46 sion (a) of section one of this act is described as all that certain
47 plot, piece or parcel of land with buildings and improvements thereon
48 erected, situate, lying and being located at Bay Park, Town of Hemp-
49 stead, County of Nassau and State of New York being more particularly
50 bounded and described as follows: a circular easement with a radius of
51 15 feet, the center of said circle being the following three (3) courses
52 from the intersection of the northerly line of the Nassau County Sewage
53 Treatment Plant with the westerly side of Compton Street: running thence
54 South 68°00' East, along the northerly line of said sewage treatment
55 plant, 581 feet plus or minus to the centerline of the permanent ease-
56 ment for a force main described in section five of this act; thence

1 South 21°34' West, along said centerline, 17 feet plus or minus; thence
2 South 14°28' West, continuing along said centerline, 1,439 feet plus or
3 minus, to the center of the herein described circular easement. Contain-
4 ing within said bound 707 square feet plus or minus. Said permanent
5 easement is for an access shaft that extends from the surface of the
6 ground to an approximate depth of 70 feet. Any permanent surface
7 improvements for cathodic protection, if necessary, would be flush with
8 the ground surface or integrated into site landscaping. Said parcel
9 being part of property designated as Section: 42 Block: A Lots: 50, 57
10 on the Nassau County Land and Tax Map.

11 § 5. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
12 under which a permanent easement may be established pursuant to subdivi-
13 sion (a) of section one of this act is described as all that certain
14 plot, piece or parcel of land with buildings and improvements thereon
15 erected, situate, lying and being located at Bay Park, Town of Hemp-
16 stead, County of Nassau and State of New York being a 20-foot wide strip
17 of land more particularly bounded and described as follows: beginning at
18 a point on the northerly line of the Nassau County Sewage Treatment
19 Plant property, said Point of Beginning being South 68°00' East, as
20 measured along northerly line of said sewage treatment plant, 571 feet
21 plus or minus, from the intersection of the northerly line Nassau County
22 Sewage Treatment Plant with the westerly side of Compton Street; running
23 thence South 68°00' East, along the northerly line of said sewage treat-
24 ment plant, 20 feet plus or minus; thence South 21°34' West 17 feet plus
25 or minus; thence South 14°28' West 1,463 feet plus or minus; thence
26 North 75°32' West 20 feet plus or minus; thence North 14°28' East 1,464
27 feet plus or minus; thence North 21°34' East 18 feet plus or minus, to
28 the northerly line of the Nassau County Sewage Treatment Plant, at the
29 Point of Beginning. Containing within said bounds 29,600 square feet.
30 The above described permanent easement is for the construction and oper-
31 ation of a six-foot diameter force main at a minimum depth of fifteen
32 feet below the ground surface. Said parcel being part of property desig-
33 nated as Section: 42 Block: A Lots: 50, 57 on the Nassau County Land and
34 Tax Map.

35 § 6. TEMPORARY EASEMENT - Force main shaft construction area. Park-
36 land upon and under which a temporary easement may be established pursu-
37 ant to subdivision (b) of section one of this act is described as all
38 that certain plot, piece or parcel of land with buildings and improve-
39 ments thereon erected, situate, lying and being located at the hamlet of
40 Wantagh, Town of Hempstead, County of Nassau and State of New York being
41 more particularly bounded and described as follows: beginning at a point
42 on the northwesterly line of the herein described temporary easement for
43 the force main shaft construction area, said Point of Beginning being
44 more particularly described as commencing at the intersection of the
45 southerly side of Sunrise Highway Street with the southeasterly side of
46 Lakeview Road; running thence southerly along the southeasterly side of
47 Lakeview Road 243 feet plus or minus, to the centerline of the permanent
48 subsurface easement for force main described in section eight of this
49 act; thence South 60°06' East, along said centerline, 25 feet plus or
50 minus, to the northwesterly line of the temporary easement for the force
51 main shaft construction area, at the Point of Beginning. Running thence
52 North 39°06' East 111 feet plus or minus; thence South 55°47' East 70
53 feet plus or minus; thence South 38°42' West 240 feet plus or minus;
54 thence North 54°11' West 72 feet plus or minus; thence North 39°06' East
55 127 feet plus or minus, to the Point of Beginning. Containing within
56 said bounds 16,900 square feet plus or minus. The above described tempo-

1 rary easement is for the construction of a thirty-foot diameter access
2 shaft. The location of said access shaft is more particularly described
3 in section seven of this act. Said parcel being part of property design-
4 nated as Section: 56 Block: Y Lot: 259 on the Nassau County Land and Tax
5 Map.

6 § 7. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
7 under which a permanent easement may be established pursuant to subdivi-
8 sion (a) of section one of this act is described as all that certain
9 plot, piece or parcel of land with buildings and improvements thereon
10 erected, situate, lying and being located at Hamlet of Wantagh, Town of
11 Hempstead, County of Nassau and State of New York being more particular-
12 ly bounded and described as follows: a circular easement with a radius
13 of 15 feet, the center of said circle being the following two (2) cours-
14 es from the intersection of the southerly side of Sunrise Highway with
15 the southeasterly side of Lakeview Road: Southerly along the southeast-
16 erly side of Lakeview Road 243 feet plus or minus, to the centerline of
17 the permanent subsurface easement for force main, described in section
18 eight of this act; South 60°06' East, along said centerline, 51 feet
19 plus or minus, to the center of the herein described circular easement.
20 Containing within said bounds a surface area of 707 square feet plus or
21 minus. Said permanent easement is for an access shaft that extends from
22 the surface of the ground to an approximate depth of 70 feet. Any perma-
23 nent surface improvements for cathodic protection, if necessary, would
24 be flush with the ground surface or integrated into site landscaping.
25 Said parcel being part of property designated as Section: 56 Block: Y
26 Lot: 259 on the Nassau County Land and Tax Map.

27 § 8. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
28 under which a permanent easement may be established pursuant to subdivi-
29 sion (a) of section one of this act is described as all that certain
30 plot, piece or parcel of land with buildings and improvements thereon
31 erected, situate, lying and being located at the Hamlet of Wantagh, Town
32 of Hempstead, County of Nassau and State of New York being a 20-foot
33 wide strip of land more particularly bounded and described as follows:
34 beginning at a point on the southeasterly side of Lakeview Road, said
35 Point of Beginning being southwesterly 222 feet plus or minus, as meas-
36 ured along the southeasterly side of Lakeview Road from the intersection
37 of the southerly side of Sunrise Highway with the southeasterly side of
38 Lakeview Road; thence South 60°06' East 49 feet plus or minus; thence
39 South 32°15' East 1,759 feet plus or minus; thence South 16°16' West 53
40 feet plus or minus; thence North 32°15' West 1,785 feet plus or minus;
41 thence North 60°06' West 53 feet plus or minus, to the southeasterly
42 side of Lakeview Road; thence North 48°13' East, along the southeasterly
43 side of Lakeview Road, 42 feet plus or minus, to the Point of Beginning.
44 Containing within said bounds 72,900 square feet plus or minus. The
45 above described permanent easement is for the construction and operation
46 of a six-foot diameter force main at a minimum depth of fifteen feet
47 below the ground surface. Said parcel being part of property designated
48 as Section: 56 Block: Y Lots: 259 on the Nassau County Land and Tax Map.

49 § 9. TEMPORARY EASEMENT - Force main shaft construction area. Park-
50 land upon and under which a temporary easement may be established pursu-
51 ant to subdivision (b) of section one of this act is described as all
52 that certain plot, piece or parcel of land with buildings and improve-
53 ments thereon erected, situate, lying and being located at the hamlet of
54 Wantagh, Town of Hempstead, County of Nassau and State of New York being
55 more particularly bounded and described as follows: beginning at a point
56 on the northerly line of the herein described temporary easement for the

1 force main shaft construction area, said Point of Beginning being more
2 particularly described as commencing at the intersection of the souther-
3 ly side of Byron Street with the easterly side of Wantagh Parkway;
4 running thence southerly along the easterly side of Wantagh Parkway 319
5 feet plus or minus, to the centerline of the permanent subsurface ease-
6 ment for force main, described in section eleven of this act; thence
7 South 19°15' East, along said centerline, 257 feet plus or minus, to the
8 northerly line of the temporary easement for the force main shaft
9 construction area, at the Point of Beginning. Running thence North
10 87°25' East 122 feet plus or minus; thence south 33°56' East 68 feet
11 plus or minus; thence South 04°43' East 54 feet plus or minus; thence
12 South 86°38' West 78 feet plus or minus; thence South 02°20' East 83
13 feet plus or minus; thence South 47°04' West 103 feet plus or minus;
14 thence South 86°22' West 28 feet plus or minus; thence North 08°39' West
15 264 feet plus or minus; thence North 87°25' East 53 feet plus or minus,
16 to the Point of Beginning. Containing within said bounds 36,500 square
17 feet plus or minus. The above described temporary easement is for the
18 construction of a thirty-foot diameter access shaft. The location of
19 said access shaft is more particularly described in section ten of this
20 act. Said parcel being part of property designated as Section: 63 Block:
21 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County
22 Land and Tax Map.

23 § 10. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
24 under which a permanent easement may be established pursuant to subdivi-
25 sion (a) of section one of this act is described as all that certain
26 plot, piece or parcel of land with buildings and improvements thereon
27 erected, situate, lying and being located at Hamlet of Wantagh, Town of
28 Hempstead, County of Nassau and State of New York being more particular-
29 ly bounded and described as follows: a circular easement with a radius
30 of 15 feet, the center of said circle being the following two (2) cours-
31 es from the intersection of the southerly side of Byron Street with the
32 easterly side of Wantagh Parkway: Southerly along the easterly side of
33 Wantagh Parkway 319 feet plus or minus, to the centerline of the perma-
34 nent subsurface easement for force main, described in section eleven of
35 this act; thence South 19°15' East, along said centerline, 315 feet plus
36 or minus, to the center of the herein described circular easement.
37 Containing within said bounds a surface area of 707 square feet plus or
38 minus. Said permanent easement is for an access shaft that extends from
39 the surface of the ground to an approximate depth of 70 feet. Any perma-
40 nent surface improvements for cathodic protection, if necessary, would
41 be flush with the ground surface or integrated into site landscaping.
42 Said parcel being part of property designated as Section: 63 Block: 261
43 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land
44 and Tax Map.

45 § 11. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
46 under which a permanent easement may be established pursuant to subdivi-
47 sion (a) of section one of this act is described as all that certain
48 plot, piece or parcel of land with buildings and improvements thereon
49 erected, situate, lying and being located at the Hamlet of Wantagh, Town
50 of Hempstead, County of Nassau and State of New York being a 20-foot
51 wide strip of land more particularly bounded and described as follows:
52 beginning at a point on the easterly side of Wantagh Parkway, said Point
53 of Beginning being southerly 285 feet plus or minus, as measured along
54 the easterly side of Wantagh Parkway from the intersection of the south-
55 erly side of Byron Street with the easterly side of Wantagh Parkway;
56 running thence South 19°15' East 349 feet plus or minus; thence South

1 02°17' East 1,882 feet plus or minus; thence South 09°25' East 1,202
2 feet plus or minus; thence South 80°35' West 20 feet plus or minus;
3 thence North 09°25' West 1,203 feet plus or minus; thence North 02°17'
4 West 1,880 feet plus or minus; thence North 19°15' West 281 feet plus or
5 minus, to the easterly side of Wantagh Parkway; thence North 02°09'
6 West, along the easterly side of Wantagh Parkway, 68 feet plus or minus,
7 to the Point of Beginning. Containing within said bounds 68,000 square
8 feet plus or minus. The above described permanent easement is for the
9 construction and operation of a six-foot diameter force main at a mini-
10 mum depth of fifteen feet below the ground surface. Said parcel being
11 part of property designated as Section: 63 Block: 261 Lots: 765G, 818A
12 (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

13 § 12. In the event that the county of Nassau received any funding
14 support or assistance from the federal government for the purchase,
15 maintenance, or improvement of the parklands set forth in sections three
16 through eleven of this act, the discontinuance and alienation of such
17 parklands authorized by the provisions of this act shall not occur until
18 the county of Nassau has complied with any applicable federal require-
19 ments pertaining to the alienation or conversion of parklands, including
20 satisfying the secretary of the interior that the alienation or conver-
21 sion complies with all conditions which the secretary of the interior
22 deems necessary to assure the substitution of other lands shall be
23 equivalent in fair market value and usefulness to the lands being alien-
24 ated or converted.

25 § 13. This act shall take effect immediately.

26 SUBPART B

27 Section 1. The village of East Rockaway, in the county of Nassau, is
28 hereby authorized, acting by and through the village board of such
29 village, and the department of environmental conservation, acting by and
30 through the commissioner of such department or his or her designee, for
31 the purpose of constructing, operating, maintaining and repairing a
32 sub-surface sewer main, are hereby authorized to establish (a) permanent
33 easements upon and under the parklands described in sections four and
34 five of this act, and (b) a temporary easement upon and under the park-
35 lands described in section three of this act. Authorization for the
36 temporary easement described in section three of this act shall cease
37 upon the completion of the construction of the sewer main, at which time
38 the department of environmental conservation shall restore the surface
39 of the parklands disturbed and the parklands shall continue to be used
40 for park purposes as they were prior to the grant of the temporary ease-
41 ment. Authorization for the permanent easements described in sections
42 four and five of this act shall require that the department of environ-
43 mental conservation restore the surface of the parklands disturbed and
44 the parklands shall continue to be used for park purposes as they were
45 prior to the establishment of the permanent easements.

46 § 2. The authorization provided in section one of this act shall be
47 effective only upon the condition that the village of East Rockaway
48 dedicate an amount equal to or greater than the fair market value of the
49 permanent and temporary easements being conveyed and the temporary
50 alienation pursuant to section one of this act to the acquisition of new
51 parklands and/or capital improvements to existing park and recreational
52 facilities within the Village of East Rockaway.

53 § 3. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
54 land upon and under which a temporary easement may be established pursu-

1 ant to subdivision (b) of section one of this act is described as
2 follows: all that certain plot, piece or parcel of land with buildings
3 and improvements thereon erected, situate, lying and being located at
4 Incorporated Village of East Rockaway, and the Hamlet of Oceanside, Town
5 of Hempstead, County of Nassau and State of New York being more partic-
6 ularly bounded and described as follows: beginning at a point on the
7 westerly line of the herein described temporary easement for the force
8 main shaft construction area, said Point of Beginning being more partic-
9 ularly described as commencing at the intersection of the northeasterly
10 side of Long Island Railroad right-of-way with the easterly side of
11 Ocean Avenue; running thence North 12°34' East, along the easterly side
12 of Ocean Avenue, 92 feet plus or minus, to the northerly line of proper-
13 ty designated as Section 38 Block E Lot 14, on the Nassau County Land
14 and Tax Map; thence South 74°46' East, partly along said northerly line,
15 206 feet plus or minus, to the westerly line of the temporary easement,
16 at the Point of Beginning. Running thence North 15°34' East 49 feet plus
17 or minus; thence South 67°33' East 238 feet plus or minus; thence South
18 07°07' West 31 feet plus or minus; thence South 86°06' West 161 feet
19 plus or minus; thence South 64°59' West 117 feet plus or minus; thence
20 North 15°34' East 140 feet plus or minus, to the Point of Beginning.
21 Containing within said bounds 23,000 square feet plus or minus. The
22 above described temporary easement is for the construction of a thirty-
23 foot diameter access shaft. The location of said access shaft is more
24 particularly described in section four of this act. Said parcel being
25 part of property designated as Section: 38, Block: E, Lots: 12, 14, 21A,
26 21B on the Nassau County Land and Tax Map.

27 § 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and
28 under which a permanent easement may be established pursuant to subdivi-
29 sion (a) of section one of this act is described as all that certain
30 plot, piece or parcel of land with buildings and improvements thereon
31 erected, situate, lying and being located at Incorporated Village of
32 East Rockaway, and the Hamlet of Oceanside, Town of Hempstead, County of
33 Nassau and State of New York being more particularly bounded and
34 described as follows: a circular easement with a radius of 15 feet, the
35 center of said circle being the following three (3) courses from the
36 intersection of the northeasterly side of Long Island Railroad right-of-
37 way with the easterly side of Ocean Avenue; North 12°34' East, along the
38 easterly side of Ocean Avenue, 92 feet plus or minus, to the northerly
39 line of property designated as Section 38 Block E Lot 14 on the Nassau
40 County Land and Tax Map; South 74°46' East, partly along the said north-
41 erly line, 333 feet plus or minus, to the centerline of the subsurface
42 easement for force main described in section five of this act; thence
43 South 19°04' West, along said centerline, 16 feet plus or minus, to the
44 center of the herein described circular easement. Containing within said
45 bounds a surface area of 707 square feet plus or minus. Said permanent
46 easement is for an access shaft that extends from the surface of the
47 ground to an approximate depth of 70 feet. Any permanent surface
48 improvements for cathodic protection, if necessary, would be flush with
49 the ground surface or integrated into site landscaping. Said parcel
50 being part of property designated as Section: 38, Block: E, Lots: 12,
51 14, 21A, 21B on the Nassau County Land and Tax Map.

52 § 5. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and
53 under which a permanent easement may be established pursuant to subdivi-
54 sion (a) of section one of this act is described as all that certain
55 plot, piece or parcel of land with buildings and improvements thereon
56 erected, situate, lying and being located at Incorporated Village of

1 East Rockaway, and the Hamlet of Oceanside, County of Nassau and State
2 of New York being a 20-foot wide strip of land more particularly bounded
3 and described as follows: beginning at a point on the westerly line of
4 the herein described permanent subsurface easement, said Point of Begin-
5 ning being more particularly described as commencing at the intersection
6 of the northeasterly side of Long Island Railroad right-of-way with the
7 easterly side of Ocean Avenue; running thence North 12°34' East, along
8 the easterly side of Ocean Avenue, 92 feet plus or minus, to the north-
9 erly line of property designated as Section 38 Block E Lot 14 on the
10 Nassau County Land and Tax Map; thence South 74°46' East, partly along
11 the said northerly line, 323 feet plus or minus, to the westerly line of
12 the permanent easement, at the Point of Beginning. Running thence North
13 19°04' East 73 feet plus or minus, to the northerly line of property
14 designated as Section 38 Block E Lot 21A on the Nassau County Land and
15 Tax Map; thence South 60°10' East, along said northerly line, 20 feet
16 plus or minus; thence South 19°04' West 82 feet plus or minus; thence
17 South 15°40' East 116 feet plus or minus, to the south line of property
18 designated as Section 38 Block E Lot 21A on the Nassau County Land and
19 Tax Map; thence North 88°09' West 21 feet plus or minus; thence North
20 15°40' West 116 feet plus or minus; thence North 19°04' East 19 feet
21 plus or minus, to the Point of Beginning. Containing within said bounds
22 4,100 square feet plus or minus. The above described permanent easement
23 is for the construction and operation of a six-foot diameter force main
24 at a minimum depth of fifteen feet below the ground surface. Said parcel
25 being part of property designated as Section: 38, Block: E, Lots: 12,
26 14, 21A, 21B on the Nassau County Land and Tax Map.

27 § 6. In the event that the village of East Rockaway received any fund-
28 ing support or assistance from the federal government for the purchase,
29 maintenance, or improvement of the parklands set forth in sections three
30 through five of this act, the discontinuance and alienation of such
31 parklands authorized by the provisions of this act shall not occur until
32 the village of East Rockaway has complied with any applicable federal
33 requirements pertaining to the alienation or conversion of parklands,
34 including satisfying the secretary of the interior that the alienation
35 or conversion complies with all conditions which the secretary of the
36 interior deems necessary to assure the substitution of other lands shall
37 be equivalent in fair market value and usefulness to the lands being
38 alienated or converted.

39 § 7. This act shall take effect immediately.

40 SUBPART C

41 Section 1. The village of Rockville Centre, in the county of Nassau,
42 acting by and through the board of trustees of such village, and the
43 department of environmental conservation, acting by and through the
44 commissioner of such department or his or her designee, for the purpose
45 of constructing, operating, maintaining and repairing a sub-surface
46 sewer main, are hereby authorized to establish (a) permanent easements
47 upon and under the parklands described in sections three, four and six
48 of this act, and (b) temporary easements upon and under the parklands
49 described in sections five and seven of this act. Authorization for the
50 temporary easements described in sections five and seven of this act
51 shall cease upon the completion of the construction of the sewer main,
52 at which time the department of environmental conservation shall restore
53 the surface of the parklands disturbed and the parklands shall continue
54 to be used for park purposes as they were prior to the grant of the

temporary easements. Authorization for the permanent easements described in sections three, four and six of this act shall require that the department of environmental conservation restore the surface of the parklands disturbed and the parklands shall continue to be used for park purposes as they were prior to the establishment of the permanent easements.

§ 2. The authorization provided in section one of this act shall be effective only upon the condition that the village of Rockville Centre dedicate an amount equal to or greater than the fair market value of the permanent and temporary easements being conveyed and the temporary alienation pursuant to section one of this act to the acquisition of new parklands and/or capital improvements to existing park and recreational facilities within the village of Rockville Centre.

§ 3. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of East Rockaway, and the Incorporated Village of Rockville Centre, Town of Hempstead, County of Nassau and State of New York, being a 20-foot wide strip of land more particularly bounded and described as follows: the Point of Beginning being at the intersection of the northerly side of Mill River Avenue with the easterly side of Riverside Road; running thence northerly along the easterly side of Riverside Road 346 feet plus or minus; thence South 13°01' West 346 feet plus or minus, to the northerly side of Mill River Avenue; thence westerly along the northerly side of Mill River Avenue, 17 feet plus or minus, to the easterly side of Riverside Road, at the Point of Beginning. Containing within said bounds 3,100 square feet plus or minus. The above described permanent easement is for the construction and operation of a six-foot diameter force main at a minimum depth of fifteen feet below the ground surface. Said parcel being part of property designated as Section: 38 Block: 136 Lots: 231 on the Nassau County Land and Tax Map.

§ 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as a circular easement with a radius of 15 feet, the center of said circle being the following two (2) courses from the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road: Easterly along the northerly side of Park Avenue, 203 feet plus or minus, to the centerline of the permanent subsurface easement for force main described in section six of this act; North 13°01' East, along said centerline, 953 feet plus or minus, to the center of the herein described circular easement. Containing within said bounds a surface area of 707 square feet plus or minus. Said permanent easement is for an access shaft that extends from the surface of the ground to an approximate depth of 70 feet. Any permanent surface improvements for cathodic protection, if necessary, would be flush with the ground surface or integrated into site landscaping. Said parcel being part of property designated as Section: 38 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on the Nassau County Land and Tax Map.

§ 5. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: Beginning at a point on the southerly side of the herein described temporary easement for the force main shaft construction area, said Point of Beginning being more particularly described as commencing at the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road; running thence easterly along the northerly side of Park Avenue, 203 feet plus or minus, to the centerline of the permanent subsurface easement for force main described in section six of this act; thence North 13°01' East, along said centerline, 920 feet plus or minus, to the southerly line of the temporary easement, at the Point of Beginning. Running thence North 76°19' West 136 feet plus or minus, to the easterly terminus of Merton Avenue (unopened); thence North 76°19' West, through the unopened part of Merton Avenue, 48 feet plus or minus; thence North 14°49' East 5' feet plus or minus, to the northerly side of Merton Avenue; thence North 14°49' East 27' feet plus or minus; thence South 76°29' East 66 feet plus or minus; thence North 36°47' East 61 feet plus or minus; thence North 78°41' East 145 feet plus or minus; thence South 65°54' East 46 feet plus or minus; thence South 29°39' West 147 feet plus or minus; thence North 76°19' West 42 feet plus or minus, to the Point of Beginning. Containing within said bounds 22,800 square feet plus or minus. The above described temporary easement is for the construction of a thirty-foot diameter access shaft. The location of said access shaft is more particularly described in section four of this act. Said parcel being part of property designated as Section: 38 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on the Nassau County Land and Tax Map.

§ 6. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being a 20-foot wide strip of land more particularly bounded and described as follows: beginning at a point on the northerly side of Park Avenue, said Point of Beginning 193 feet plus or minus easterly, as measured along the northerly side of Park Avenue from the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road; running thence North 13°01' East 956 feet plus or minus; thence North 44°00' East 446 feet plus or minus, to the northeasterly line of property designated as Section 38 Block F Lot 50F, on the Nassau County Land and Tax Map; thence South 53°10' East, along said northeasterly line, 20 feet plus or minus; thence South 44°00' West 443 feet plus or minus; thence South 13°01' West 950 feet plus or minus, to the northerly side of Park Avenue; thence North 79°36' West, along said northerly side, 20 feet plus or minus to the Point of Beginning; containing within said bounds 28,000 square feet plus or minus. The above described permanent easement is for the construction and operation of a six-foot diameter force main at a minimum depth of fifteen feet below the ground

1 surface. Said parcel being part of property designated as Section: 38
2 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A,
3 50B, 50C on the Nassau County Land and Tax Map.

4 § 7. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
5 land upon and under which a temporary easement may be established pursu-
6 ant to subdivision (b) of section one of this act is described as all
7 that certain plot, piece or parcel of land with buildings and improve-
8 ments thereon erected, situate, lying and being located at Incorporated
9 Village of Rockville Centre, Town of Hempstead, County of Nassau and
10 State of New York being more particularly bounded and described as
11 follows: beginning at a point on the northerly side of Sunrise Highway
12 (New York State Route 27A), said Point of Beginning being distant 254
13 feet plus or minus westerly as measured along the northerly side of
14 Sunrise Highway from the intersection of the northerly side of Sunrise
15 Highway with the westerly side of Forest Avenue; running thence North
16 86°15' West, along the northerly side of Sunrise Highway, 175 feet plus
17 or minus; thence South 68°26' West, continuing along the northerly side
18 of Sunrise Highway, 111 feet plus or minus; thence North 14°47' West 162
19 feet plus or minus, to the southerly side of the Long Island Rail Road
20 right-of-way; thence South 86°59' East, along the southerly side of the
21 Long Island Rail Road, 479 feet plus or minus; thence South 01°59' West
22 75 feet plus or minus, to the northerly side of the travelled way of
23 Sunrise Highway, then 160 feet plus or minus along the arc or a circular
24 curve to the left that has a radius of 850 feet and a chord that bears
25 South 80°03' West 160 feet plus or minus to the Point of Beginning.
26 Containing within said bounds 50,300 square feet plus or minus. The
27 above described temporary easement is necessary for the construction of
28 temporary access to the aqueduct below Sunrise Highway area. Said parcel
29 being part of property designated as Section: 38 Block: 291 Lot: 17 on
30 the Nassau County Land and Tax Map.

31 § 8. In the event that the village of Rockville Centre received any
32 funding support or assistance from the federal government for the
33 purchase, maintenance, or improvement of the parklands set forth in
34 sections three through seven of this act, the discontinuance and alien-
35 ation of such parklands authorized by the provisions of this act shall
36 not occur until the village of Rockville Centre has complied with any
37 applicable federal requirements pertaining to the alienation or conver-
38 sion of parklands, including satisfying the secretary of the interior
39 that the alienation or conversion complies with all conditions which the
40 secretary of the interior deems necessary to assure the substitution of
41 other lands shall be equivalent in fair market value and usefulness to
42 the lands being alienated or converted.

43 § 9. This act shall take effect immediately.

44 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
45 sion, section, subpart or part of this act shall be adjudged by a court
46 of competent jurisdiction to be invalid, such judgment shall not affect,
47 impair, or invalidate the remainder thereof, but shall be confined in
48 its operation to the clause, sentence, paragraph, subdivision, section,
49 subpart or part thereof directly involved in the controversy in which
50 such judgment shall have been rendered. It is hereby declared to be the
51 intent of the legislature that this act would have been enacted even if
52 such invalid provisions had not been included herein.

53 § 3. This act shall take effect immediately, provided, however, that
54 the applicable effective date of Subparts A through C of this act shall
55 be as specifically set forth in the last section of such Subparts.

1

PART VV

2 Section 1. Subdivision 13 of section 23-0101 of the environmental
3 conservation law, as amended by chapter 846 of the laws of 1981, is
4 amended and four new subdivisions 21, 22, 23, and 24 are added to read
5 as follows:

6 13. "Plug and abandon" means the plugging, and replugging if neces-
7 sary, and abandonment of a well or well bore including the placing of
8 all bridges, plugs, and fluids therein and the restoration and reclama-
9 tion of the surface of affected land in the immediate vicinity to a
10 reasonable condition consistent with the adjacent terrain unless such
11 restoration and reclamation of the surface is waived by the landowner
12 and approved by the department.

13 21. "Abandoned" means wells or affected land regulated pursuant to
14 titles 1, 3, 5, 7, 11, 13 and 19 of this article for which the responsi-
15 ble owner or operator neglects or refuses to comply with its statutory
16 or regulatory obligations and responsibilities related to such wells or
17 affected land, after notice and as determined by the department.

18 22. "Affected land" means land or lands in the immediate vicinity of
19 wells, including well pads and access roads, that are disturbed or
20 impacted, or potentially disturbed or impacted, by activities regulated
21 pursuant to titles 1, 3, 5, 7, 11, 13 and 19 of this article.

22 23. "Orphaned" means wells or affected land regulated pursuant to
23 titles 1, 3, 5, 7, 9, 11, 13 and 19 of this article for which no respon-
24 sible owner or operator exists or can be reasonably found, as determined
25 by the department.

26 24. "Well" and "well bore" means an existing or proposed hole, drilled
27 or constructed, that is cased, uncased or both, for the purpose of
28 producing oil or gas or both, or for the purpose of a storage, solution
29 mining, injection, monitoring, stratigraphic, brine disposal or geother-
30 mal well regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of
31 this article.

32 § 2. Subdivision 8 of section 23-0305 of the environmental conserva-
33 tion law, as added by chapter 846 of the laws of 1981, paragraph e as
34 amended by chapter 386 of the laws of 2005, paragraph f as amended by
35 chapter 721 of the laws of 1989, and paragraph k as added by chapter 891
36 of the laws of 1984, is amended to read as follows:

37 8. With respect to oil pools or fields ~~[and]~~, natural gas pools or
38 fields, underground gas storage reservoirs, and wells and their affected
39 land regulated pursuant to titles one, three, five, seven, nine, eleven,
40 thirteen, and nineteen of this article, the department shall have power
41 to:

42 a. Make such investigations as it deems proper to determine whether
43 waste exists or is imminent.

44 b. Require identification of ownership of producing leases, tanks,
45 plants, structures and facilities for the transportation and refining of
46 oil and gas.

47 c. Classify and reclassify wells or affected land as abandoned or
48 orphaned, pools as oil or gas pools, or wells as oil ~~[or]~~, gas,
49 injection, monitoring, or underground storage wells, and require iden-
50 tification of wells as an oil, gas, injection, monitoring, or under-
51 ground storage well, including the delineation of boundaries for
52 purposes material to the interpretation or administration of this arti-
53 cle.

54 d. Require the drilling, casing, operation, plugging and replugging of
55 wells and reclamation of surrounding land in accordance with rules and

1 regulations of the department in such manner as to prevent or remedy the
2 following, including but not limited to: the escape of oil, gas, brine
3 or water out of one stratum into another; the intrusion of water into
4 oil or gas strata other than during enhanced recovery operations; the
5 pollution of fresh water supplies by oil, gas, salt water or other
6 contaminants; and blowouts, cavings, seepages and fires.

7 e. Enter, take temporary possession of, repair, plug or replug any
8 abandoned or orphaned well as provided in the rules and regulations,
9 whenever any owner or operator neglects or refuses to comply with such
10 rules and regulations. Such repairing, plugging or replugging by the
11 department shall be at the expense of the owner or operator whose duty
12 it may be to repair or plug the well and who shall hold harmless the
13 state of New York for all accounts, damages, costs and judgments arising
14 from the repairing, plugging or replugging of the well and the surface
15 restoration of the affected land. Primary liability for the expense of
16 such repairing, plugging or replugging and first recourse for the recovery
17 thereof shall be to the operator unless a contract for the
18 production, development, exploration or other working of the well, to
19 which the lessor or other grantor of the oil and gas rights is a party,
20 shall place such liability on the owner or on the owner of another
21 interest in the land on which the well is situated. When an operator
22 violates any provision of this article, any rule or regulation promulgated
23 thereunder, or any order issued pursuant thereto in reference to
24 repairing, plugging or replugging an abandoned or orphaned well, the
25 operator may not transfer the operator's responsibility therefor by
26 surrendering the lease. Prior to the commencement of drilling of any
27 well, the operator shall be required to furnish to the department, and
28 continuously maintain, a bond acceptable to it conditioned upon the
29 performance of said operator's plugging responsibilities with respect to
30 said well. Upon the approval of the department, in lieu of such bond,
31 the operator may deposit cash or negotiable bonds of the United States
32 Government of like amount in an escrow account conditioned upon the
33 performance of said operator's plugging responsibilities with respect to
34 said well. Any interest accruing as a result of the aforementioned
35 escrow deposit shall be the exclusive property of the operator. The
36 aforementioned bonding requirements shall remain the obligation of the
37 original operator regardless of changes in operators unless a subsequent
38 operator has furnished the appropriate bond or substitute as herein
39 provided acceptable to the department and approval for the transfer of
40 the well operatorship, which includes plugging and surface restoration
41 responsibilities, to the subsequent operator has been granted by the
42 department. The failure of any operator to maintain a bond or other
43 financial security as prescribed herein shall be deemed a breach of
44 plugging and surface restoration responsibilities and entitle the
45 department to claim the proceeds of the bond or other financial security.
46 The cost of repairing, plugging or replugging any well, where such
47 action is necessary or incident to the commencing or carrying on of
48 storage operations pursuant to section 23-1103 or 23-1301 shall be borne
49 by the operator of the storage facility.

50 f. Require that every person who produces, sells, purchases, acquires,
51 stores or injects oil or gas and associated fluids and every person who
52 transports oil or gas in this state shall keep and maintain complete and
53 accurate records of the quantities thereof. Quantities of associated
54 fluids injected or produced may be reported as estimated volumes. True
55 copies or duplicates shall be kept or made available for examination
56 within this state by the department or its agents at all reasonable

1 times and every such person shall file with the department such reports
2 concerning production, sales, purchases, acquisitions, injection, trans-
3 portation or storage on a form provided by the department or approved by
4 the department prior to submittal.

5 g. In addition to the powers provided for in titles 1, 3, 5 and 13 of
6 article 71, order an immediate suspension of drilling or production
7 operations whenever such operations are being carried on in violation of
8 this article or any rule or regulation promulgated thereunder or order
9 issued pursuant thereto. Any order issued pursuant to this paragraph may
10 be reviewed upon application of an aggrieved party by means of an order
11 to show cause which order shall be issued by any justice of the supreme
12 court in the judicial district in which any order applies and shall be
13 returnable on the third succeeding business day following the issuance
14 of such order. Service of such show cause order shall be made upon the
15 regional office of the department for the region in which such order
16 applies, and upon the attorney general by delivery of such order to an
17 assistant attorney general at an office of the attorney general in the
18 county in which venue of the proceeding is designated, or if there is no
19 office of the attorney general within such county, at the office of the
20 attorney general nearest such county. Except as hereinabove specified,
21 the proceeding to review an order under this paragraph shall be governed
22 by article seventy-eight of the civil practice law and rules.

23 h. Require the immediate reporting of any non-routine incident includ-
24 ing but not limited to casing and drill pipe failures, casing cement
25 failures, fishing jobs, fires, seepages, blowouts and other incidents
26 during drilling, completion, producing, plugging or replugging oper-
27 ations that may affect the health, safety, welfare or property of any
28 person. The department may require the operator, or any agent thereof,
29 to record any data which the department believes may be of subsequent
30 use for adequate evaluation of a non-routine incident.

31 i. Require the taking and making of well logs, well samples, direc-
32 tional surveys and reports on well locations and elevations, drilling
33 and production, and further require their filing pursuant to the
34 provisions of this article. Upon the request of the state geologist, the
35 department shall cause such duplicate samples or copies of records and
36 reports as may be required pursuant to this article to be furnished to
37 him.

38 j. Give notice to persons engaged in underground mining operations of
39 the commencement of any phase of oil or gas well operations which may
40 affect the safety of such underground mining operations or of the mining
41 properties involved. Rules and regulations promulgated under this arti-
42 cle shall specify the distance from underground mining operations within
43 which such notice shall be given and shall contain such other provisions
44 as in the judgment of the department shall be necessary in the interest
45 of safety. The department shall not be required to furnish any notice
46 required by this paragraph unless the person or persons engaged in
47 underground mining operations or having rights in mining properties have
48 notified the department of the existence and location of such under-
49 ground mining operations or properties.

50 k. (1) Except as to production of gas from lands under the waters of
51 Lake Erie, in order to satisfy the financial security requirements
52 contained in paragraph e of this subdivision for wells ~~[less than six~~
53 ~~thousand feet in depth]~~ for which the department ~~[either]~~ on or after
54 October first, nineteen hundred sixty-three shall have issued or shall
55 issue permits to drill, deepen, convert or plug back such wells or, on
56 or after June fifth, nineteen hundred seventy-three, shall have issued

1 acknowledgements of notices of intention to drill such wells or, for all
2 wells subject to this article for which requests for transfer of well
3 operatorship, which includes plugging and surface restoration responsi-
4 bilities, are approved by the department on or after the effective date
5 of the chapter of the laws of two thousand twenty that amended this
6 paragraph, without any way affecting any obligations to plug such wells,
7 the operator shall provide a bond or other financial security acceptable
8 to the department ~~[in the following amount:~~

9 ~~(i) for wells less than two thousand five hundred feet in depth:~~

10 ~~(a) twenty five hundred dollars per well, provided that the operator~~
11 ~~shall not be required to provide financial security under this item~~
12 ~~exceeding twenty five thousand dollars for up to twenty five wells;~~

13 ~~(b) for twenty six to fifty wells, twenty five thousand dollars, plus~~
14 ~~twenty five hundred dollars per well in excess of twenty five wells,~~
15 ~~provided that the operator shall not be required to provide financial~~
16 ~~security under this item exceeding forty thousand dollars;~~

17 ~~(c) for fifty one to one hundred wells, forty thousand dollars, plus~~
18 ~~twenty five hundred dollars per well in excess of fifty wells, provided~~
19 ~~that the operator shall not be required to provide financial security~~
20 ~~under this item exceeding seventy thousand dollars;~~

21 ~~(d) for over one hundred wells, seventy thousand dollars, plus twen-~~
22 ~~ty five hundred dollars per well in excess of one hundred wells,~~
23 ~~provided that the operator shall not be required to provide financial~~
24 ~~security under this item exceeding one hundred thousand dollars.~~

25 ~~(ii) for wells between two thousand five hundred feet and six thousand~~
26 ~~feet in depth:~~

27 ~~(a) five thousand dollars per well, provided that the operator shall~~
28 ~~not be required to provide financial security under this item exceeding~~
29 ~~forty thousand dollars for up to twenty five wells;~~

30 ~~(b) for twenty six to fifty wells, forty thousand dollars, plus five~~
31 ~~thousand dollars per well in excess of twenty five wells, provided that~~
32 ~~the operator shall not be required to provide financial security under~~
33 ~~this item exceeding sixty thousand dollars;~~

34 ~~(c) for fifty one to one hundred wells, sixty thousand dollars, plus~~
35 ~~five thousand dollars per well in excess of fifty wells, provided that~~
36 ~~the operator shall not be required to provide financial security under~~
37 ~~this item exceeding one hundred thousand dollars;~~

38 ~~(d) for over one hundred wells, one hundred thousand dollars, plus~~
39 ~~five thousand dollars per well in excess of one hundred wells, provided~~
40 ~~that the operator shall not be required to provide financial security~~
41 ~~under this item exceeding one hundred fifty thousand dollars].~~

42 ~~(2) [In the event that an operator shall have wells described in~~
43 ~~clauses (i) and (ii) of subparagraph (1) of this paragraph, in lieu of~~
44 ~~providing financial security under the provisions of each such clause,~~
45 ~~such operator may file financial security as if all such wells were~~
46 ~~between two thousand five hundred feet and six thousand feet in depth.~~

47 ~~(3)]~~ For all wells ~~[greater than six thousand feet in depth]~~ that
48 require financial security, the operator ~~[may be required to]~~ shall
49 provide [additional] the department with financial security consistent
50 with criteria contained in rules and regulations ~~[to be adopted], and~~
51 any subsequent rules and regulations adopted by the department to imple-
52 ment this [subparagraph] article. The department is authorized to adopt
53 rules and regulations determining the amount, type, conditions, and
54 terms of the financial security.

55 § 3. Subdivision 9 of section 23-0305 of the environmental conserva-
56 tion law, as amended by chapter 846 of the laws of 1981, paragraph d as

1 amended by chapter 721 of the laws of 1989, paragraph e as amended by
2 chapter 386 of the laws of 2005, and paragraph f as added by chapter 891
3 of the laws of 1984, is amended to read as follows:

4 9. With respect to solution mining areas the department shall have the
5 power to:

6 a. Require identification of ownership of producing leases and
7 solution mining equipment such as structures, tanks, gathering systems
8 and facilities for the transportation of salt brine.

9 a-1. Classify and reclassify wells or affected land as abandoned or
10 orphaned, or wells or unrestored lands regulated pursuant to titles 1,
11 3, 5, 7, 9, 11, 13, and 19 of this article, and require well identifica-
12 tion as a solution mining well or monitoring well.

13 b. Require the drilling, casing, operation and plugging of wells in
14 accordance with rules and regulations of the department in such a manner
15 as to prevent the loss or escape of oil or gas reserves to the surface
16 or to other strata; the intrusion of brine or water into commercial oil
17 or gas reserves; the pollution of fresh water supplies by oil, gas or
18 salt water, and to facilitate the efficient use of ground and surface
19 waters in solution mining.

20 c. Give notice to persons engaging in underground mining operations of
21 the commencing of any phase of solution mining well operations which may
22 affect the safety of such underground mining operations or of the mining
23 properties involved. Rules and regulations of the department adopted
24 pursuant hereto shall specify the distance from such underground mining
25 operations within which such notice shall be given and shall contain
26 such other provisions as in the judgment of the department shall be
27 necessary in the interest of safety. The department shall not be
28 required to furnish any notice pursuant hereto unless the person or
29 persons engaged in underground mining operations or having rights in
30 mining properties have notified the department of the existence and
31 location of such underground mining operations or properties.

32 d. Require metering or other measuring of brine produced by solution
33 mining, and the maintenance of the records from each cavity or group of
34 interconnected cavities until the wells in a cavity have been plugged
35 and [~~abandoned~~] affected land restored. These records shall be given to
36 the department on request.

37 e. Enter, take temporary possession of, repair, plug or replug any
38 abandoned or orphaned well as provided in the rules and regulations,
39 whenever any operator neglects or refuses to comply with such rules and
40 regulations. Such repairing, plugging or replugging by the department
41 shall be at the expense of the owner or operator whose duty it shall be
42 to repair or plug the well and who shall hold harmless the state of New
43 York for all accounts, damages, costs and judgments arising for the
44 repairing, plugging or replugging of the well and the surface restora-
45 tion of the affected land. Primary liability for the expense of such
46 plugging or replugging and first recourse for the recovery thereof shall
47 be to the operator unless a contract for the production, development,
48 exploration or other working of the well, to which the lessor or other
49 grantor of the solution salt rights is a party, shall place such liabil-
50 ity on the owner or on the owner of another interest in the land on
51 which the well is situated. When an operator violates any provision of
52 this article, any rule or regulation promulgated thereunder, or any
53 order issued pursuant thereto in reference to repairing, plugging or
54 replugging an abandoned or orphaned well, the operator may not transfer
55 the operator's responsibility therefor by surrendering the lease. Prior
56 to the commencement of drilling of any well to which this subdivision

1 applies, the operator shall be required to furnish to the department,
2 and continuously maintain, a bond acceptable to it conditioned upon the
3 performance of said operator's plugging and surface restoration respon-
4 sibilities with respect to said well. Upon the approval of the depart-
5 ment, in lieu of such bond, the operator may deposit cash or negotiable
6 bonds of the United States Government of like amount in an escrow
7 account conditioned upon the performance of said operator's plugging and
8 surface restoration responsibilities with respect to said well. Any
9 interest accruing as a result of aforementioned escrow deposit shall be
10 the exclusive property of the operator. The aforementioned bonding
11 requirements shall remain the obligation of the original operator
12 regardless of changes in operators unless a subsequent operator has
13 furnished the appropriate bond or substitute as herein provided accepta-
14 ble to the department and approval for the transfer of the well plugging
15 [~~responsibility~~] and surface restoration responsibilities to the subse-
16 quent operator has been granted by the department. The failure of any
17 operator to maintain a bond or other financial security as prescribed
18 herein shall be deemed a breach of plugging and surface restoration
19 responsibilities and entitle the department to claim the proceeds of the
20 bond or other financial security. Any order issued pursuant to this
21 paragraph may be reviewed upon application of an aggrieved party by
22 means of an order to show cause which order shall be issued by any
23 justice of the supreme court in the judicial district in which any such
24 order applies and shall be returnable on the third succeeding business
25 day following the issuance of such order. Service of such show cause
26 order shall be made upon the regional office of the department for the
27 region in which such order applies, and upon the attorney general by
28 delivery of such order to an assistant attorney general at an office of
29 the attorney general in the county in which venue of the proceeding is
30 designated, or if there is no office of the attorney general within such
31 county, at the office of the attorney general nearest such county.
32 Except as hereinabove specified, the proceeding to review an order under
33 this paragraph shall be governed by article seventy-eight of the civil
34 practice law and rules.

35 f. (1) In order to satisfy the financial security requirements
36 contained in paragraph e of this subdivision for all wells for which the
37 department [~~either~~] on or after October first, nineteen hundred sixty-
38 three shall have issued or shall issue permits to drill, deepen, convert
39 or plug back such wells or, on or after June fifth, nineteen hundred
40 seventy-three, shall have issued acknowledgements of notices of inten-
41 tion to drill such wells or for all wells subject to this article for
42 which requests for transfers of well operatorship, which includes plug-
43 ging and surface restoration responsibilities, are approved by the
44 department on or after the effective date of the chapter of the laws of
45 two thousand twenty that amended this paragraph, without in any way
46 affecting any obligation to plug such wells, the operator shall provide
47 a bond or other financial security acceptable to the department [~~in the~~
48 ~~following amount:~~

49 ~~(i) for wells less than two thousand five hundred feet in depth;~~
50 ~~(a) twenty five hundred dollars per well, provided that the operator~~
51 ~~shall not be required to provide financial security under this item~~
52 ~~exceeding twenty five thousand dollars for up to twenty five wells;~~
53 ~~(b) for twenty six to fifty wells, twenty five thousand dollars, plus~~
54 ~~twenty five hundred dollars per well in excess of twenty five wells,~~
55 ~~provided that the operator shall not be required to provide financial~~
56 ~~security under this item exceeding forty thousand dollars;~~

~~(c) for fifty one to one hundred wells, forty thousand dollars, plus twenty five hundred dollars per well in excess of fifty wells, provided that the operator shall not be required to provide financial security under this item exceeding seventy thousand dollars,~~

~~(d) for over one hundred wells, seventy thousand dollars, plus twenty five hundred dollars per well in excess of one hundred wells, provided that the operator shall not be required to provide financial security under this item exceeding one hundred thousand dollars.~~

~~(ii) for wells between two thousand five hundred feet and six thousand feet in depth.~~

~~(a) five thousand dollars per well provided that the operator shall not be required to provide financial security under this item exceeding forty thousand dollars for up to twenty five wells,~~

~~(b) for twenty six to fifty wells, forty thousand dollars, plus five thousand dollars per well in excess of twenty five wells, provided that the operator shall not be required to provide financial security under this item exceeding sixty thousand dollars,~~

~~(c) for fifty one to one hundred wells, sixty thousand dollars, plus five thousand dollars per well in excess of fifty wells, provided that the operator shall not be required to provide financial security under this item exceeding one hundred fifty thousand dollars,~~

~~(d) for over one hundred wells, one hundred thousand dollars, plus five thousand dollars per well in excess of one hundred wells, provided that the operator shall not be required to provide financial security under this item exceeding one hundred fifty thousand dollars].~~

~~(2) [In the event that an operator shall have wells described in clauses (i) and (ii) of subparagraph (1) of this paragraph, in lieu of providing financial security under the provisions of each such clause, such operator may file financial security as if all such wells were between two thousand five hundred feet and six thousand feet in depth.~~

~~(3) For wells greater than six thousand feet in depth, the operator may be required to provide additional financial security consistent with criteria contained in rules and regulation to be adopted to implement this subparagraph]~~ For all wells that require financial security, the operator shall provide the department with financial security consistent with criteria contained in rules and regulations, and any subsequent rules and regulations adopted by the department to implement this article. The department is authorized to adopt rules and regulations determining the amount, type, conditions, and terms of the financial security.

§ 4. Subdivision 14 of section 23-0305 of the environmental conservation law, as added by chapter 410 of the laws of 1987 and paragraph f as amended by chapter 386 of the laws of 2005, is amended to read as follows:

14. With respect to wells drilled deeper than five hundred feet below the earth's surface for the purpose of conducting stratigraphic tests, for finding or producing hot water or steam, for injecting fluids to recover heat from the surrounding geologic materials or for the disposal of brines, the department shall have the power to:

a. Require all exploration, drilling and development operations to be conducted in accordance with standards promulgated by the department in rules and regulations.

b. Conduct investigations to determine the extent of compliance with this section and all rules, regulations and orders issued pursuant thereto.

1 c. Classify [~~a well as one subject to~~] and reclassify wells or
2 affected lands as abandoned or orphaned, to wells or unrestored lands
3 regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of this
4 [~~section~~] article and require [~~its~~] well identification as a geothermal,
5 stratigraphic or brine disposal well.

6 d. Require the drilling, casing, operation, plugging and replugging of
7 wells subject to this section and reclamation of surrounding land in
8 accordance with rules and regulations of the department.

9 e. Enter, take temporary possession of, repair, plug or replug any
10 abandoned or orphaned well [~~subject to this section~~] as provided in the
11 rules and regulations, whenever the well's owner or operator neglects or
12 refuses to comply with such rules and regulations. Such repairing, plug-
13 ging or replugging by the department shall be at the expense of the
14 owner or operator whose duty it shall be to repair or plug the well and
15 who shall hold harmless the state of New York for all accounts, damages,
16 costs and judgments arising from the repairing, plugging or replugging
17 of the well and the surface restoration of the affected land.

18 f. (1) Require that the operator furnish to the department, and
19 continuously maintain, a bond or other financial security conditioned
20 upon the satisfactory performance of the operator's plugging and surface
21 restoration responsibilities with respect to said [~~well~~] wells for which
22 the department shall have issued or shall issue permits to drill, deep-
23 en, convert or plug back or, for all wells subject to this article for
24 which requests for transfers of well operatorship, which includes plug-
25 ging and surface restoration responsibilities, are approved by the
26 department on or after the effective date of the chapter of the laws of
27 two thousand twenty that amended this paragraph. The failure of any
28 operator to maintain a bond or other financial security as prescribed
29 herein shall be deemed a breach of plugging and surface restoration
30 responsibilities and entitle the department to claim the proceeds of the
31 bond or other financial security. Such bond or other financial security
32 shall be for an amount as determined [~~pursuant to the provisions of~~
33 ~~paragraph k of subdivision eight of this section~~] by and acceptable to
34 the department.

35 (2) For all wells that require financial security, the operator shall
36 provide the department with financial security consistent with criteria
37 contained in rules and regulations, and any subsequent rules and regu-
38 lations adopted by the department to implement this article. The depart-
39 ment is authorized to adopt rules and regulations determining the
40 amount, type, conditions, and terms of the financial security.

41 g. In addition to the powers provided for in titles one, three, five
42 and thirteen of article seventy-one of this chapter, order an immediate
43 suspension of operations carried on in violation of the oil, gas and
44 solution mining law or any rule or regulation promulgated thereunder or
45 order issued pursuant thereto.

46 h. Require the immediate reporting of any non-routine incident,
47 including but not limited to casing and drill pipe failures, casing
48 cement failures, fishing jobs, fires, seepages, blowouts and other inci-
49 dents during drilling, completion, producing, plugging or replugging
50 operations that may affect the health, safety, welfare or property of
51 any person or which may be injurious to plants or animals. The depart-
52 ment may require the operator or any agent thereof to record and provide
53 any data which the department believes may be of use for adequate evalu-
54 ation of a non-routine incident.

55 i. Require the taking and making of logs, samples, directional surveys
56 and reports on locations, elevations, drilling and production, and

1 further require filing of such information pursuant to the provisions of
2 the oil, gas and solution mining law. Upon the request of the state
3 geologist, the department shall cause such samples or copies of records
4 and reports to be furnished to the state geologist.

5 j. Give notice to persons engaged in underground mining operations of
6 the commencement of any phase of geothermal, stratigraphic and brine
7 disposal well operations which may affect the safety of such underground
8 mining operations or of the mining properties involved. The department
9 shall not be required to furnish any notice required by this paragraph
10 unless the person or persons engaged in underground mining operations or
11 having rights in mining properties have notified the department of the
12 existence and location of such underground mining operations or proper-
13 ties.

14 § 5. This act shall take effect immediately.

15 PART WW

16 Section 1. Subdivision 3 of section 23-0501 of the environmental
17 conservation law, as added by chapter 386 of the laws of 2005, is renun-
18 bered subdivision 4 and a new subdivision 3 is added to read as follows:

19 3. No permits shall be issued authorizing an applicant to drill, deep-
20 en, plug back, or convert wells that use high-volume hydraulic fractur-
21 ing to complete or recomplete natural gas resources. For purpose of this
22 section, high-volume hydraulic fracturing shall be defined as the stimu-
23 lation of a well using three hundred thousand or more gallons of water
24 as the base fluid for hydraulic fracturing for all stages in a well
25 completion, regardless of whether the well is vertical or directional,
26 including horizontal.

27 § 2. This act shall take effect immediately.

28 PART XX

29 Section 1. The vehicle and traffic law is amended by adding a new
30 section 102-c to read as follows:

31 § 102-c. Bicycle with electric assist. Every motor vehicle, including
32 one partially powered by human power, other than one registered or capa-
33 ble of being registered pursuant to this chapter as a motorcycle or
34 limited use motorcycle, having a seat or a saddle for the use of the
35 rider and designed to travel on two wheels which has an electric motor
36 no greater than seven hundred fifty watts, equipped with operable
37 pedals, meeting the equipment and manufacturing requirements for bicy-
38 cles adopted by the Consumer Product Safety Commission under 16 C.F.R.
39 Part 1512.1 et seq. and meeting the requirements of one of the following
40 three classes:

41 (a) "Class one bicycle with electric assist." A bicycle with electric
42 assist having an electric motor that provides assistance only when the
43 person operating such bicycle with electric assist is pedaling, and that
44 ceases to provide assistance when such bicycle with electric assist
45 reaches a speed of twenty miles per hour.

46 (b) "Class two bicycle with electric assist." A bicycle with electric
47 assist having an electric motor that may be used exclusively to propel
48 such bicycle with electric assist, and that is not capable of providing
49 assistance when such bicycle with electric assist reaches a speed of
50 twenty miles per hour.

51 (c) "Class three bicycle with electric assist." Solely within a city
52 having a population of one million or more, a bicycle with electric

assist having an electric motor that may be used exclusively to propel such bicycle with electric assist, and that is not capable of providing assistance when such bicycle with electric assist reaches a speed of twenty-five miles per hour.

§ 2. Section 125 of the vehicle and traffic law, as amended by chapter 365 of the laws of 2008, is amended to read as follows:

§ 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (a-2) bicycle with electric assist as defined in section one hundred two-c of this article, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, and (d) all terrain vehicles as defined in article forty-eight-B of this chapter. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

§ 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202 of the vehicle and traffic law, as amended by chapter 679 of the laws of 1970, is amended to read as follows:

b. On a sidewalk, except a bicycle with electric assist as defined in section one hundred two-c of this chapter;

§ 4. The article heading of article 34 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

OPERATION OF BICYCLES [~~AND~~], PLAY
DEVICES AND BICYCLES WITH ELECTRIC ASSIST

§ 5. Section 1231 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

§ 1231. Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates or persons operating bicycles with electric assist; local laws. 1. Every person riding a bicycle or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2. (a) Except as provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to paragraph (b) of this subdivision, bicycles with electric assist may only be operated on public highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes. Every person operating a bicycle with electric assist upon a highway or roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special requirements in this article and except as to those provisions of this title which by their nature can have no application.

(b) The governing body of any county, city, town or village may, by local law, ordinance, order, rule or regulation, further regulate the maximum speed, time, place and manner of the operation of a bicycle with electric assist including requiring the use of protective headwear and wearing readily visible reflective clothing or material, and limiting or prohibiting the use thereof in specified areas under the jurisdiction of such county, city, town or village or prohibit entirely the use of bicycles with electric assist within such county, city, town or village. Notwithstanding title eight of this chapter, the governing body of any county, city, town or village shall not authorize the use of bicycles with electric assist upon sidewalks or regulate the parking, standing or stopping of bicycles with electric assist on sidewalks.

§ 6. The vehicle and traffic law is amended by adding a new section 1232-a to read as follows:

§ 1232-a. Operating bicycles with electric assist. 1. Every person operating a bicycle with electric assist shall yield the right of way to pedestrians.

2. Every operator of a bicycle with electric assist shall be sixteen years of age or older.

3. The operation of a class three bicycle with electric assist outside a city having a population of one million or more is prohibited.

4. No person shall operate a class one or class two bicycle with electric assist in excess of twenty miles per hour. No person shall operate a class three bicycle with electric assist in excess of twenty-five miles per hour.

5. No person shall operate a bicycle with electric assist on a sidewalk.

6. A first violation of the provisions of this section shall result in no fine. A second or subsequent violation shall result in a civil fine not to exceed fifty dollars.

§ 7. Subdivision 1 of section 1233 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

1. No person operating a bicycle with electric assist or riding upon any bicycle, coaster, in-line skates, roller skates, skate board, sled, or toy vehicle shall attach the same or himself or herself to any vehicle being operated upon a roadway.

§ 8. Section 1234 of the vehicle and traffic law, as amended by chapter 16 of the laws of 1996, is amended to read as follows:

§ 1234. Riding or operating on roadways, shoulders, bicycle or in-line skate lanes ~~and~~, bicycle or in-line skate paths and lanes reserved for non-motorized vehicles and devices. (a) Upon all roadways, any bicycle, bicycle with electric assist or in-line skate shall be driven or operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a bicycle, bicycle with electric assist or person on in-line skates and a vehicle to travel safely side-by-side within the lane.

(b) Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast. Persons operating bicycles with electric assist upon a roadway shall ride single file. Persons riding bicycles or skating or gliding on in-line skates or operating a bicycle with electric assist upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skates path, intended for the use of bicycles, electric personal assistive mobility device, bicycles with electric assist, or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle ~~[or]~~, electric personal assistive mobility device, bicycle with electric assist, person on in-line skates, or pedestrian, standing or proceeding along such shoulder, lane or path, persons riding bicycles, operating bicycles with electric assist, or skating or gliding on in-line skates shall ride, operate, skate, or glide single file. Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall ride, skate, or glide single file when being overtaken by a vehicle.

(c) Any person operating a bicycle, bicycle with electric assist or skating or gliding on in-line skates who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 9. Section 1235 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

§ 1235. Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars. No person operating a bicycle with electric assist shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision. No person skating or gliding on in-line skates shall carry any package, bundle, or article which obstructs his or her vision in any direction. No person operating a skate board shall carry any package, bundle, or article which obstructs his or her vision in any direction.

§ 10. Section 1236 of the vehicle and traffic law, subdivision (a) as amended by chapter 16 of the laws of 2009 and subdivisions (d) and (e) as added by chapter 887 of the laws of 1976, is amended to read as follows:

§ 1236. Lamps and other equipment on bicycles and bicycles with electric assist. (a) Every bicycle or bicycle with electric assist when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red or amber light visible to the rear for three hundred feet. Effective July first, nineteen hundred seventy-six, at least one of these lights shall be visible for two hundred feet from each side.

(b) No person shall operate a bicycle or bicycle with electric assist unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle or bicycle with electric assist shall not be equipped with nor shall any person use upon a bicycle or bicycle with electric assist any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. Every bicycle with electric assist shall be equipped with a system that enables the operator to bring the device to a controlled stop.

(d) Every new bicycle shall be equipped with reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel, said tires and reflectors to be of types approved by the commissioner. The reflex reflector mounted on the front wheel shall be colorless or amber, and the reflex reflector mounted on the rear wheel shall be colorless or red.

(e) Every bicycle when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with reflective devices or material meeting the standards established by rules and regulations promulgated by the commissioner; provided, however, that such standards shall not be inconsistent with or otherwise conflict with the requirements of subdivisions (a) and (d) of this section.

§ 11. The section heading of section 1238 of the vehicle and traffic law, as amended by chapter 267 of the laws of 1993, is amended to read as follows:

Passengers on bicycles under one year of age prohibited; passengers and operators under fourteen years of age to wear protective headgear; operators of class three bicycles with electric assist to wear protective headgear.

§ 12. Section 1238 of the vehicle and traffic law is amended by adding a new subdivision 5-c to read as follows:

5-c. No person shall ride upon, propel or otherwise operate a class three bicycle with electric assist unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

§ 13. Subdivision 6 of section 1238 of the vehicle and traffic law, as added by chapter 267 of the laws of 1993, paragraph (a) as amended by chapter 402 of the laws of 2001, and paragraph (c) as amended by chapter 703 of the laws of 2004, is amended to read as follows:

6. (a) Any person who violates the provisions of subdivision five, five-a ~~[e]~~, five-b or five-c of this section shall pay a civil fine not to exceed fifty dollars.

(b) The court shall waive any fine for which a person who violates the provisions of subdivision five and subdivision five-c of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.

(c) The court may waive any fine for which a person who violates the provisions of subdivision five, five-a, ~~[e]~~ five-b, or five-c of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law, or a local distribution program. Such waiver of a fine shall not apply to a second or subsequent conviction under subdivision five-c of this section.

§ 14. Subdivision 8 of section 1238 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

8. A police officer shall only issue a summons for a violation of subdivision two, five, ~~[e]~~ five-a, or five-c of this section by a person less than fourteen years of age to the parent or guardian of such

1 person if the violation by such person occurs in the presence of such
2 person's parent or guardian and where such parent or guardian is eigh-
3 teen years of age or more. Such summons shall only be issued to such
4 parent or guardian, and shall not be issued to the person less than
5 fourteen years of age.

6 § 15. Section 1240 of the vehicle and traffic law, as added by chapter
7 468 of the laws of 2001, is amended to read as follows:

8 § 1240. Leaving the scene of an incident involving a wheeled non-mo-
9 torized means of conveyance or involving a bicycle with electric assist
10 without reporting in the second degree. 1. Any person age eighteen years
11 or older operating a wheeled non-motorized means of conveyance, includ-
12 ing, but not limited to bicycles, in-line skates, roller skates and
13 skate boards, or operating a bicycle with electric assist, who, knowing
14 or having cause to know, that physical injury, as defined in subdivision
15 nine of section 10.00 of the penal law, has been caused to another
16 person, due to the operation of such non-motorized means of conveyance
17 or bicycle with electric assist by such person, shall, before leaving
18 the place where the said physical injury occurred, stop, and provide his
19 name and residence, including street and street number, to the injured
20 party, if practical, and also to a police officer, or in the event that
21 no police officer is in the vicinity of the place of said injury, then
22 such person shall report said incident as soon as physically able to the
23 nearest police station or judicial officer.

24 2. Leaving the scene of an incident involving a wheeled non-motorized
25 means of conveyance or involving a bicycle with electric assist without
26 reporting in the second degree is a violation.

27 § 16. Section 1241 of the vehicle and traffic law, as added by chapter
28 468 of the laws of 2001, is amended to read as follows:

29 § 1241. Leaving the scene of an incident involving a wheeled non-mo-
30 torized means of conveyance or involving a bicycle with electric assist
31 without reporting in the first degree. 1. Any person age eighteen years
32 or older operating a wheeled non-motorized means of conveyance, includ-
33 ing, but not limited to bicycles, in-line skates, roller skates and
34 skate boards, or operating a bicycle with electric assist, who, knowing
35 or having cause to know, that serious physical injury, as defined in
36 subdivision ten of section 10.00 of the penal law, has been caused to
37 another person, due to the operation of such non-motorized means of
38 conveyance or bicycle with electric assist by such person, shall, before
39 leaving the place where the said serious physical injury occurred, stop,
40 and provide his name and residence, including street and street number,
41 to the injured party, if practical, and also to a police officer, or in
42 the event that no police officer is in the vicinity of the place of said
43 injury, then such person shall report said incident as soon as phys-
44 ically able to the nearest police station or judicial officer.

45 2. Leaving the scene of an incident involving a wheeled non-motorized
46 means of conveyance or involving a bicycle with electric assist without
47 reporting in the first degree is a class B misdemeanor.

48 § 17. The vehicle and traffic law is amended by adding a new section
49 1242 to read as follows:

50 § 1242. Operation of a bicycle with electric assist while under the
51 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
52 person shall operate a bicycle with electric assist while his or her
53 ability to operate such bicycle with electric assist is impaired by the
54 consumption of alcohol.

55 (i) A violation of this subdivision shall be an offense and shall be
56 punishable by a fine of not less than three hundred dollars nor more

1 than five hundred dollars, or by imprisonment in a penitentiary or coun-
2 ty jail for not more than fifteen days, or by both such fine and impri-
3 sonment.

4 (ii) A person who operates a bicycle with electric assist in violation
5 of this subdivision after being convicted of a violation of any subdivi-
6 sion of this section within the preceding five years shall be punished
7 by a fine of not less than five hundred dollars nor more than seven
8 hundred fifty dollars, or by imprisonment of not more than thirty days
9 in a penitentiary or county jail or by both such fine and imprisonment.

10 (iii) A person who operates a bicycle with electric assist in
11 violation of this subdivision after being convicted two or more times of
12 a violation of any subdivision of this section within the preceding ten
13 years shall be guilty of a misdemeanor, and shall be punished by a fine
14 of not less than seven hundred fifty dollars nor more than fifteen
15 hundred dollars, or by imprisonment of not more than one hundred eighty
16 days in a penitentiary or county jail or by both such fine and imprison-
17 ment.

18 (b) No person shall operate a bicycle with electric assist while he or
19 she has .08 of one per centum or more by weight of alcohol in his or her
20 blood, breath, urine, or saliva, as determined by the chemical test made
21 pursuant to the provisions of subdivision five of this section.

22 (c) No person shall operate a bicycle with electric assist while he or
23 she is in an intoxicated condition.

24 (d) No person shall operate a bicycle with electric assist while his
25 or her ability to operate such bicycle with electric assist is impaired
26 by the use of a drug as defined by section one hundred fourteen-a of
27 this chapter.

28 (e) No person shall operate a bicycle with electric assist while his
29 or her ability to operate such bicycle with electric assist is impaired
30 by the combined influence of drugs or of alcohol and any drug or drugs
31 as defined by section one hundred fourteen-a of this chapter.

32 (f) (i) A violation of paragraph (b), (c), (d), or (e) of this subdi-
33 vision shall be a misdemeanor and shall be punishable by imprisonment in
34 a penitentiary or county jail for not more than one year, or by a fine
35 of not less than five hundred dollars nor more than one thousand
36 dollars, or by both such fine and imprisonment.

37 (ii) A person who operates a bicycle with electric assist in violation
38 of paragraph (b), (c), (d) or (e) of this subdivision after having been
39 convicted of a violation of paragraph (b), (c), (d) or (e) of this
40 subdivision, or of operating a bicycle with electric assist while intox-
41 icated or while under the influence of drugs, or while under the
42 combined influence of drugs or of alcohol and any drug or drugs, within
43 the preceding ten years, shall be guilty of a class E felony and shall
44 be punished by a period of imprisonment as provided in the penal law, or
45 by a fine of not less than one thousand dollars nor more than five thou-
46 sand dollars, or by both such fine and imprisonment.

47 (iii) A person who operates a bicycle with electric assist in
48 violation of paragraph (b), (c), (d) or (e) of this subdivision after
49 having been twice convicted of a violation of any of such paragraph (b),
50 (c), (d) or (e) of this subdivision or of operating a bicycle with elec-
51 tric assist while intoxicated or under the influence of drugs, or while
52 under the combined influence of drugs or of alcohol and any drug or
53 drugs, within the preceding ten years, shall be guilty of a class D
54 felony and shall be punished by a fine of not less than two thousand
55 dollars nor more than ten thousand dollars or by a period of imprison-

1 ment as provided in the penal law, or by both such fine and imprison-
2 ment.

3 2. Sentencing limitations. Notwithstanding any provision of the penal
4 law, no judge or magistrate shall impose a sentence of unconditional
5 discharge or a violation of paragraph (b), (c), (d) or (e) of subdivi-
6 sion one of this section nor shall he or she impose a sentence of condi-
7 tional discharge unless such conditional discharge is accompanied by a
8 sentence of a fine as provided in this section.

9 3. Sentencing: previous convictions. When sentencing a person for a
10 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
11 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
12 one of this section, the court shall consider any prior convictions the
13 person may have for a violation of subdivision two, two-a, three, four,
14 or four-a of section eleven hundred ninety-two of this title within the
15 preceding ten years. When sentencing a person for a violation of para-
16 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
17 to subparagraph (iii) of paragraph (f) of subdivision one of this
18 section, the court shall consider any prior convictions the person may
19 have for a violation of subdivision two, two-a, three, four, or four-a
20 of section eleven hundred ninety-two of this title within the preceding
21 ten years. When sentencing a person for a violation of subparagraph
22 (ii) of paragraph (a) of subdivision one of this section, the court
23 shall consider any prior convictions the person may have for a violation
24 of any subdivision of section eleven hundred ninety-two of this title
25 within the preceding five years. When sentencing a person for a
26 violation of subparagraph (iii) of paragraph (a) of subdivision one of
27 this section, the court shall consider any prior convictions the person
28 may have for a violation of any subdivision of section eleven hundred
29 ninety-two of this title within the preceding ten years.

30 4. Arrest and testing. (a) Notwithstanding the provisions of section
31 140.10 of the criminal procedure law, a police officer may, without a
32 warrant, arrest a person, in case of a violation of any paragraph of
33 subdivision one of this section, if such violation is coupled with an
34 accident or collision in which such person is involved, which in fact
35 had been committed, though not in the police officer's presence, when he
36 or she has reasonable cause to believe that the violation was committed
37 by such person. For the purposes of this subdivision, police officer
38 shall also include a peace officer authorized to enforce this chapter
39 when the alleged violation constitutes a crime.

40 (b) Breath test for operators of bicycles with electric assist. Every
41 person operating a bicycle with electric assist which has been involved
42 in an accident or which is operated in violation of any of the
43 provisions of this section which regulate the manner in which a bicycle
44 with electric assist is to be properly operated shall, at the request of
45 a police officer, submit to a breath test to be administered by the
46 police officer. If such test indicates that such operator has consumed
47 alcohol, the police officer may request such operator to submit to a
48 chemical test in the manner set forth in subdivision five of this
49 section.

50 5. Chemical tests. (a) Any person who operates a bicycle with electric
51 assist shall be requested to consent to a chemical test of one or more
52 of the following: breath, blood, urine, or saliva for the purpose of
53 determining the alcoholic or drug content of his or her blood, provided
54 that such test is administered at the direction of a police officer: (i)
55 having reasonable cause to believe such person to have been operating in
56 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of

1 subdivision one of this section and within two hours after such person
2 has been placed under arrest for any such violation or (ii) within two
3 hours after a breath test as provided in paragraph (b) of subdivision
4 four of this section indicates that alcohol has been consumed by such
5 person and in accordance with the rules and regulations established by
6 the police force of which the officer is a member.

7 (b) For the purpose of this subdivision "reasonable cause" shall be
8 determined by viewing the totality of circumstances surrounding the
9 incident which, when taken together, indicate that the operator was
10 operating a bicycle with electric assist in violation of any paragraph
11 of subdivision one of this section. Such circumstances may include, but
12 are not limited to: evidence that the operator was operating a bicycle
13 with electric assist in violation of any provision of this chapter,
14 local law, ordinance, order, rule or regulation which regulates the
15 manner in which a bicycle with electric assist be properly operated at
16 the time of the incident; any visible indication of alcohol or drug
17 consumption or impairment by the operator; and other evidence surround-
18 ing the circumstances of the incident which indicates that the operator
19 has been operating a bicycle with electric assist while impaired by the
20 consumption of alcohol or drugs or was intoxicated at the time of the
21 incident.

22 6. Chemical test evidence. (a) Upon the trial of any such action or
23 proceeding arising out of actions alleged to have been committed by any
24 person arrested for a violation of any paragraph of subdivision one of
25 this section, the court shall admit evidence of the amount of alcohol or
26 drugs in the defendant's blood as shown by a test administered pursuant
27 to the provisions of subdivision five of this section.

28 (b) The following effect shall be given to evidence of blood alcohol
29 content, as determined by such tests, of a person arrested for a
30 violation of any paragraph of subdivision one of this section and who
31 was operating a bicycle with electric assist:

32 (i) evidence that there was .05 of one per centum or less by weight of
33 alcohol in such person's blood shall be prima facie evidence that the
34 ability of such person to operate a bicycle with electric assist was not
35 impaired by the consumption of alcohol, and that such person was not in
36 an intoxicated condition.

37 (ii) evidence that there was more than .05 of one per centum but less
38 than .07 of one per centum by weight of alcohol in such person's blood
39 shall be prima facie evidence that such person was not in an intoxicated
40 condition, but such evidence shall be relevant evidence but not be given
41 prima facie effect, in determining whether the ability of such person to
42 operate a bicycle with electric assist was impaired by the consumption
43 of alcohol.

44 (iii) evidence that there was .07 of one per centum or more but less
45 than .08 of one per centum by weight of alcohol in his or her blood
46 shall be prima facie evidence that such person was not in an intoxicated
47 condition, but such evidence shall be given prima facie effect in deter-
48 mining whether the ability of such person to operate a bicycle with
49 electric assist was impaired by the consumption of alcohol.

50 (c) Evidence of a refusal to submit to a chemical test or any portion
51 thereof shall be admissible in any trial or hearing provided the request
52 to submit to such a test was made in accordance with the provisions of
53 subdivision five of this section.

54 7. Limitations. (a) A bicycle with electric assist operator may be
55 convicted of a violation of paragraphs (a), (b), (c), (d) and (e) of
56 subdivision one of this section, notwithstanding that the charge laid

1 before the court alleged a violation of paragraph (b), (c), (d) or (e)
2 of subdivision one of this section, and regardless of whether or not
3 such condition is based on a plea of guilty.

4 (b) In any case wherein the charge laid before the court alleges a
5 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
6 section, any plea of guilty thereafter entered in satisfaction of such
7 charge must include at least a plea of guilty to the violation of the
8 provisions of one of the paragraphs of such subdivision one and no other
9 disposition by plea of guilty to any other charge in satisfaction of
10 such charge shall be authorized; provided, however, if the district
11 attorney upon reviewing the available evidence determines that the
12 charge of a violation of subdivision one of this section is not
13 warranted, he or she may consent, and the court may allow, a disposition
14 by plea of guilty to another charge in satisfaction of such charge.

15 8. Enforcement upon crash. Notwithstanding any provision of this
16 section, no part of this section may be enforced unless in conjunction
17 with a crash involving an operator of a bicycle with electric assist.
18 For the purposes of this subdivision, "crash" shall mean colliding with
19 a vehicle, person, building or other object.

20 § 18. This act shall take effect immediately.

21 PART YY

22 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,
23 amending the vehicle and traffic law and other laws relating to increas-
24 ing certain motor vehicle transaction fees, as amended by section 1 of
25 part A of chapter 58 of the laws of 2017, is amended to read as follows:

26 § 13. This act shall take effect immediately; ~~provided however that~~
27 ~~sections one through seven of this act, the amendments to subdivision 2~~
28 ~~of section 205 of the tax law made by section eight of this act, and~~
29 ~~section nine of this act shall expire and be deemed repealed on April 1,~~
30 ~~2020; provided further, however, that the provisions of section eleven~~
31 ~~of this act shall take effect April 1, 2004 and shall expire and be~~
32 ~~deemed repealed on April 1, 2020].~~

33 § 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
34 the state finance law relating to the costs of the department of motor
35 vehicles, as amended by section 2 of part A of chapter 58 of the laws of
36 2015, is amended to read as follows:

37 § 2. This act shall take effect April 1, 2002; provided, however, if
38 this act shall become a law after such date it shall take effect imme-
39 diately and shall be deemed to have been in full force and effect on and
40 after April 1, 2002~~[, provided further, however, that this act shall~~
41 ~~expire and be deemed repealed on April 1, 2020].~~

42 § 3. This act shall take effect immediately.

43 PART ZZ

44 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the
45 insurance law and the vehicle and traffic law relating to establishing
46 the accident prevention course internet technology pilot program, as
47 amended by section 3 of part D of chapter 58 of the laws of 2016, is
48 amended to read as follows:

49 § 5. This act shall take effect on the one hundred eightieth day after
50 it shall have become a law and shall expire and be deemed repealed April
51 1, ~~2020~~ 2022; provided that any rules and regulations necessary to

1 implement the provisions of this act on its effective date are author-
2 ized and directed to be completed on or before such date.

3 § 2. This act shall take effect immediately.

4 PART AAA

5 Section 1. The vehicle and traffic law is amended by adding a new
6 section 114-e to read as follows:

7 § 114-e. Electric scooter. Every two-wheeled device that is no more
8 than sixty inches in length, twenty-six inches in width, and fifty-five
9 inches in height, which is designed to transport one person sitting or
10 standing on the device and can be propelled by any power other than
11 muscular power.

12 § 2. Section 125 of the vehicle and traffic law, as amended by chapter
13 365 of the laws of 2008, is amended to read as follows:

14 § 125. Motor vehicles. Every vehicle operated or driven upon a public
15 highway which is propelled by any power other than muscular power,
16 except (a) electrically-driven mobility assistance devices operated or
17 driven by a person with a disability, (a-1) electric personal assistive
18 mobility devices operated outside a city with a population of one
19 million or more, (a-2) electric scooters, (b) vehicles which run only
20 upon rails or tracks, (c) snowmobiles as defined in article forty-seven
21 of this chapter, and (d) all terrain vehicles as defined in article
22 forty-eight-B of this chapter. For the purposes of title four of this
23 chapter, the term motor vehicle shall exclude fire and police vehicles
24 other than ambulances. For the purposes of titles four and five of this
25 chapter the term motor vehicles shall exclude farm type tractors and all
26 terrain type vehicles used exclusively for agricultural purposes, or for
27 snow plowing, other than for hire, farm equipment, including self-pro-
28 pelled machines used exclusively in growing, harvesting or handling farm
29 produce, and self-propelled caterpillar or crawler-type equipment while
30 being operated on the contract site.

31 § 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202
32 of the vehicle and traffic law, as amended by chapter 679 of the laws of
33 1970, is amended to read as follows:

34 b. On a sidewalk, except an electric scooter as defined in section one
35 hundred fourteen-e of this chapter;

36 § 4. The vehicle and traffic law is amended by adding a new article
37 34-D to read as follows:

38 ARTICLE 34-D

39 OPERATION OF ELECTRIC SCOOTERS

40 Section 1280. Effect of requirements.

41 1281. Traffic laws apply to persons operating electric scooters;
42 local laws.

43 1282. Operating electric scooters.

44 1283. Clinging to vehicles.

45 1284. Riding on roadways, shoulders and lanes reserved for non-
46 motorized vehicles and devices.

47 1285. Lamps and other equipment.

48 1286. Operators to wear protective headgear.

49 1287. Leaving the scene of an incident involving an electric
50 scooter without reporting.

51 1288. Operation of an electric scooter while under the influence
52 of alcohol or drugs.

1 § 1280. Effect of requirements. The parent of any child and the guard-
2 ian of any ward shall not authorize or knowingly permit any such child
3 or ward to violate any of the provisions of this article.

4 § 1281. Traffic laws apply to persons operating electric scooters;
5 local laws. 1. Electric scooters may only be operated on public highways
6 with a posted speed limit of thirty miles per hour or less, including
7 non-interstate public highways, private roads open to motor vehicle
8 traffic, and designated bicycle or in-line skate lanes. Every person
9 operating an electric scooter upon a highway or roadway shall be granted
10 all of the rights and shall be subject to all of the duties applicable
11 to the driver of a vehicle by this title, except as to special require-
12 ments in this article and except as to those provisions of this title
13 which by their nature can have no application.

14 2. The governing body of any county, city, town or village may, by
15 local law, ordinance, order, rule or regulation, further regulate the
16 maximum speed, time, place and manner of the operation of electric
17 scooters including requiring the use of protective headgear and wearing
18 readily visible reflective clothing or material, and limiting or prohib-
19 iting the use thereof in specified areas under the jurisdiction of such
20 county, city, town or village or prohibit entirely the use of electric
21 scooters within such county, city, town or village. Notwithstanding
22 title eight of this chapter, the governing body of any county, city,
23 town or village may not authorize the use of electric scooters upon
24 sidewalks and it may not regulate the parking, standing or stopping of
25 electric scooters on sidewalks.

26 § 1282. Operating electric scooters. 1. No electric scooter shall be
27 used to carry more than one person at one time. No person operating an
28 electric scooter shall carry any person as a passenger in a pack
29 fastened to the operator or fastened to such scooter.

30 2. No person operating an electric scooter shall carry any package,
31 bundle or article which prevents the operator from keeping at least one
32 hand upon the handle bars or which obstructs his or her vision in any
33 direction.

34 3. Every person operating an electric scooter shall yield the right of
35 way to pedestrians.

36 4. Every operator of an electric scooter shall be sixteen years of age
37 or older.

38 5. No person shall operate an electric scooter in excess of fifteen
39 miles per hour.

40 6. The operation of an electric scooter on a sidewalk is prohibited.

41 7. (a) The governing body of any county, city, town or village may, by
42 local law, ordinance, order, rule or regulation, authorize and regulate
43 shared electric scooter systems within such county, city, town or
44 village. No such shared systems shall operate within a city, town or
45 village except as authorized by such local law, ordinance, order, rule
46 or regulation. No such shared electric scooter system shall operate on
47 public highways in a county with a population of no less than one
48 million five hundred eighty-five thousand and no more than one million
49 five hundred eighty-seven thousand as of the two thousand ten decennial
50 census. For the purposes of this subdivision, the term shared electric
51 scooter system shall mean a network of self-service and publicly avail-
52 able electric scooters, and related infrastructure, in which an electric
53 scooter trip begins and/or ends on any public highway.

54 (b) Notwithstanding any other provision of law to the contrary, all
55 trip data, personal information, images, videos, and other recorded
56 images collected by any shared electric scooter system which is author-

1 ized to operate within a city, town or village pursuant to this section:
2 (i) shall be for the exclusive use of such shared electric scooter
3 system and shall not be sold, distributed or otherwise made available
4 for any commercial purpose and (ii) shall not be disclosed or otherwise
5 made accessible except: (1) to the person who is the subject of such
6 data, information or record; or (2) if necessary to comply with a lawful
7 court order, judicial warrant signed by a judge appointed pursuant to
8 article III of the United States constitution, or subpoena for individ-
9 ual data, information or records properly issued pursuant to the crimi-
10 nal procedure law or the civil practice law and rules. Provided, howev-
11 er, that nothing contained in this paragraph shall be deemed to preclude
12 the exchange of such data, information or recorded images solely for the
13 purpose of administering such authorized shared system.

14 8. A first violation of the provisions of this section shall result in
15 no fine. A second or subsequent violation shall result in a civil fine
16 not to exceed fifty dollars.

17 § 1283. Clinging to vehicles. 1. No person operating an electric
18 scooter shall attach such scooter, or himself or herself to any vehicle
19 being operated upon a roadway.

20 2. No vehicle operator shall knowingly permit any person to attach any
21 electric scooter or himself or herself to such operator's vehicle in
22 violation of subdivision one of this section.

23 § 1284. Riding on roadways, shoulders and lanes reserved for non-mo-
24 torized vehicles and devices. 1. Upon all roadways, any electric scooter
25 shall be operated either on a usable bicycle or in-line skate lane or,
26 if a usable bicycle or in-line skate lane has not been provided, near
27 the right-hand curb or edge of the roadway or upon a usable right-hand
28 shoulder in such a manner as to prevent undue interference with the flow
29 of traffic except when preparing to turn left at an intersection or when
30 reasonably necessary to avoid conditions that would make it unsafe to
31 continue along near the right-hand curb or edge of the roadway. Condi-
32 tions to be taken into consideration include, but are not limited to,
33 fixed or moving objects, vehicles, bicycles, in-line skaters, pedestri-
34 ans, animals, surface hazards and traffic lanes too narrow for an elec-
35 tric scooter and a vehicle to travel safely side-by-side within the
36 lane.

37 2. Persons operating electric scooters upon a roadway shall ride
38 single file. Persons operating electric scooters upon a shoulder, bicy-
39 cle or in-line skate lane, or bicycle or in-line skate path, intended
40 for the use of bicycles, electric personal assistive mobility devices,
41 electric scooters, or in-line skates may ride two or more abreast if
42 sufficient space is available, except that when passing a vehicle, bicy-
43 cle, electric personal assistive mobility device, electric scooter,
44 person on in-line skates or pedestrian standing or proceeding along such
45 shoulder, lane or path, persons operating electric scooters shall oper-
46 ate such scooter in single file.

47 3. Any person operating an electric scooter who is entering the road-
48 way from a private road, driveway, alley or over a curb shall come to a
49 full stop before entering the roadway.

50 § 1285. Lamps and other equipment. 1. Every electric scooter when in
51 use during the period from one-half hour after sunset to one-half hour
52 before sunrise shall be equipped with a lamp on the front which shall
53 emit a white light visible during hours of darkness from a distance of
54 at least five hundred feet to the front and with a red light visible to
55 the rear for three hundred feet. At least one of these lights shall be
56 visible for two hundred feet from each side.

2. No person shall operate an electric scooter unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that such scooter shall not be equipped with nor shall any person use upon such scooter any siren or whistle.

3. Every electric scooter shall be equipped with a system that enables the operator to bring the device to a controlled stop.

§ 1286. Operators to wear protective headgear. 1. No person sixteen or seventeen years of age shall ride upon, propel or otherwise operate an electric scooter unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars.

3. The court shall waive any fine for which a person who violates the provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution program. Such waiver of fine shall not apply to a second or subsequent conviction under subdivision one of this section.

4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

§ 1287. Leaving the scene of an incident involving an electric scooter without reporting. 1. (a) Any person eighteen years of age or older operating an electric scooter who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person shall, before leaving the place where such physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

(b) A violation of paragraph (a) of this subdivision shall be a violation.

2. (a) Any person eighteen years of age or older operating an electric scooter who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person shall, before leaving the place where such serious physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police

1 officer is in the vicinity of the place of said injury, then such person
2 shall report said incident as soon as physically able to the nearest
3 police station or judicial officer.

4 (b) A violation of paragraph (a) of this subdivision shall be a class
5 B misdemeanor.

6 § 1288. Operation of an electric scooter while under the influence of
7 alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall
8 operate an electric scooter while his or her ability to operate such
9 electric scooter is impaired by the consumption of alcohol.

10 (i) A violation of this subdivision shall be an offense and shall be
11 punishable by a fine of not less than three hundred dollars nor more
12 than five hundred dollars, or by imprisonment in a penitentiary or coun-
13 ty jail for not more than fifteen days, or by both such fine and impri-
14 sonment.

15 (ii) A person who operates an electric scooter in violation of this
16 subdivision after being convicted of a violation of any subdivision of
17 this section within the preceding five years shall be punished by a fine
18 of not less than five hundred dollars nor more than seven hundred fifty
19 dollars, or by imprisonment of not more than thirty days in a penitenti-
20 ary or county jail or by both such fine and imprisonment.

21 (iii) A person who operates an electric scooter in violation of this
22 subdivision after being convicted two or more times of a violation of
23 any subdivision of this section within the preceding ten years shall be
24 guilty of a misdemeanor, and shall be punished by a fine of not less
25 than seven hundred fifty dollars nor more than fifteen hundred dollars,
26 or by imprisonment of not more than one hundred eighty days in a peni-
27 tentiary or county jail or by both such fine and imprisonment.

28 (b) No person shall operate an electric scooter while he or she has
29 .08 of one per centum or more by weight of alcohol in his or her blood,
30 breath, urine, or saliva, as determined by the chemical test made pursu-
31 ant to the provisions of subdivision five of this section.

32 (c) No person shall operate an electric scooter while he or she is in
33 an intoxicated condition.

34 (d) No person shall operate an electric scooter while his or her abil-
35 ity to operate such electric scooter is impaired by the use of a drug as
36 defined by section one hundred fourteen-a of this chapter.

37 (e) No person shall operate an electric scooter while his or her abil-
38 ity to operate such electric scooter is impaired by the combined influ-
39 ence of drugs or of alcohol and any drug or drugs as defined by section
40 one hundred fourteen-a of this chapter.

41 (f)(i) A violation of paragraph (b), (c), (d) or (e) of this subdivi-
42 sion shall be a misdemeanor and shall be punishable by imprisonment in a
43 penitentiary or county jail for not more than one year, or by a fine of
44 not less than five hundred dollars nor more than one thousand dollars,
45 or by both such fine and imprisonment.

46 (ii) A person who operates an electric scooter in violation of para-
47 graph (b), (c), (d) or (e) of this subdivision after having been
48 convicted of a violation of paragraph (b), (c), (d) or (e) of this
49 subdivision, or of operating an electric scooter while intoxicated or
50 while under the influence of drugs, or while under the combined influ-
51 ence of drugs or of alcohol and any drug or drugs, within the preceding
52 ten years, shall be guilty of a class E felony and shall be punished by
53 a period of imprisonment as provided in the penal law, or by a fine of
54 not less than one thousand dollars nor more than five thousand dollars,
55 or by both such fine and imprisonment.

1 (iii) A person who operates an electric scooter in violation of para-
2 graph (b), (c), (d) or (e) of this subdivision after having been twice
3 convicted of a violation of any of such paragraph (b), (c), (d) or (e)
4 of this subdivision or of operating an electric scooter while intoxicat-
5 ed or under the influence of drugs, or while under the combined influ-
6 ence of drugs or of alcohol and any drug or drugs, within the preceding
7 ten years, shall be guilty of a class D felony and shall be punished by
8 a fine of not less than two thousand dollars nor more than ten thousand
9 dollars or by a period of imprisonment as provided in the penal law, or
10 by both such fine and imprisonment.

11 2. Sentencing limitations. Notwithstanding any provision of the penal
12 law, no judge or magistrate shall impose a sentence of unconditional
13 discharge for a violation of paragraph (b), (c), (d) or (e) of subdivi-
14 sion one of this section nor shall he or she impose a sentence of condi-
15 tional discharge unless such conditional discharge is accompanied by a
16 sentence of a fine as provided in this section.

17 3. Sentencing; previous convictions. When sentencing a person for a
18 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
19 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
20 one of this section, the court shall consider any prior convictions the
21 person may have for a violation of subdivision two, two-a, three, four,
22 or four-a of section eleven hundred ninety-two of this title within the
23 preceding ten years. When sentencing a person for a violation of para-
24 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
25 to subparagraph (iii) of paragraph (f) of subdivision one of this
26 section, the court shall consider any prior convictions the person may
27 have for a violation of subdivision two, two-a, three, four, or four-a
28 of section eleven hundred ninety-two of this title within the preceding
29 ten years. When sentencing a person for a violation of subparagraph (ii)
30 of paragraph (a) of subdivision one of this section, the court shall
31 consider any prior convictions the person may have for a violation of
32 any subdivision of section eleven hundred ninety-two of this title with-
33 in the preceding five years. When sentencing a person for a violation of
34 subparagraph (iii) of paragraph (a) of subdivision one of this section,
35 the court shall consider any prior convictions the person may have for a
36 violation of any subdivision of section eleven hundred ninety-two of
37 this title within the preceding ten years.

38 4. Arrest and testing. (a) Notwithstanding the provisions of section
39 140.10 of the criminal procedure law, a police officer may, without a
40 warrant, arrest a person, in case of a violation of any paragraph of
41 subdivision one of this section, if such violation is coupled with an
42 accident or collision in which such person is involved, which in fact
43 had been committed, though not in the police officer's presence, when he
44 or she has reasonable cause to believe that the violation was committed
45 by such person. For the purposes of this subdivision police officer
46 shall also include a peace officer authorized to enforce this chapter
47 when the alleged violation constitutes a crime.

48 (b) Breath test for operators of electric scooters. Every person
49 operating an electric scooter which has been involved in an accident or
50 which is operated in violation of any of the provisions of this section
51 which regulate the manner in which an electric scooter is to be properly
52 operated shall, at the request of a police officer, submit to a breath
53 test to be administered by the police officer. If such test indicates
54 that such operator has consumed alcohol, the police officer may request
55 such operator to submit to a chemical test in the manner set forth in
56 subdivision five of this section.

1 5. Chemical tests. (a) Any person who operates an electric scooter
2 shall be requested to consent to a chemical test of one or more of the
3 following: breath, blood, urine, or saliva for the purpose of determin-
4 ing the alcoholic or drug content of his or her blood, provided that
5 such test is administered at the direction of a police officer: (i)
6 having reasonable cause to believe such person to have been operating in
7 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of
8 subdivision one of this section and within two hours after such person
9 has been placed under arrest for any such violation or (ii) within two
10 hours after a breath test as provided in paragraph (b) of subdivision
11 four of this section indicates that alcohol has been consumed by such
12 person and in accordance with the rules and regulations established by
13 the police force of which the officer is a member.

14 (b) For the purpose of this subdivision "reasonable cause" shall be
15 determined by viewing the totality of circumstances surrounding the
16 incident which, when taken together, indicate that the operator was
17 operating an electric scooter in violation of any paragraph of subdivi-
18 sion one of this section. Such circumstances may include, but are not
19 limited to: evidence that the operator was operating an electric scooter
20 in violation of any provision of this chapter, local law, ordinance,
21 order, rule or regulation which regulates the manner in which an elec-
22 tric scooter be properly operated at the time of the incident; any visi-
23 ble indication of alcohol or drug consumption or impairment by the oper-
24 ator; and other evidence surrounding the circumstances of the incident
25 which indicates that the operator has been operating an electric scooter
26 while impaired by the consumption of alcohol or drugs or was intoxicated
27 at the time of the incident.

28 6. Chemical test evidence. (a) Upon the trial of any such action or
29 proceeding arising out of actions alleged to have been committed by any
30 person arrested for a violation of any paragraph of subdivision one of
31 this section, the court shall admit evidence of the amount of alcohol or
32 drugs in the defendant's blood as shown by a test administered pursuant
33 to the provisions of subdivision five of this section.

34 (b) The following effect shall be given to evidence of blood alcohol
35 content, as determined by such tests, of a person arrested for a
36 violation of any paragraph of subdivision one of this section and who
37 was operating an electric scooter:

38 (i) evidence that there was .05 of one per centum or less by weight of
39 alcohol in such person's blood shall be prima facie evidence that the
40 ability of such person to operate an electric scooter was not impaired
41 by the consumption of alcohol, and that such person was not in an intox-
42 icated condition.

43 (ii) evidence that there was more than .05 of one per centum but less
44 than .07 of one per centum by weight of alcohol in such person's blood
45 shall be prima facie evidence that such person was not in an intoxicated
46 condition, but such evidence shall be relevant evidence but not be given
47 prima facie effect, in determining whether the ability of such person to
48 operate an electric scooter was impaired by the consumption of alcohol.

49 (iii) evidence that there was .07 of one per centum or more but less
50 than .08 of one per centum by weight of alcohol in his or her blood
51 shall be prima facie evidence that such person was not in an intoxicated
52 condition, but such evidence shall be given prima facie effect in deter-
53 mining whether the ability of such person to operate an electric scooter
54 was impaired by the consumption of alcohol.

55 (c) Evidence of a refusal to submit to a chemical test or any portion
56 thereof shall be admissible in any trial or hearing provided the request

1 to submit to such a test was made in accordance with the provisions of
2 subdivision five of this section.

3 7. Limitations. (a) An electric scooter operator may be convicted of a
4 violation of paragraphs (a), (b), (d) and (e) of subdivision one of this
5 section, notwithstanding that the charge laid before the court alleged a
6 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
7 section, and regardless of whether or not such condition is based on a
8 plea of guilty.

9 (b) In any case wherein the charge laid before the court alleges a
10 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
11 section, any plea of guilty thereafter entered in satisfaction of such
12 charge must include at least a plea of guilty to the violation of the
13 provisions of one of the paragraphs of subdivision one of this section
14 and no other disposition by plea of guilty to any other charge in satis-
15 faction of such charge shall be authorized; provided, however, if the
16 district attorney upon reviewing the available evidence determines that
17 the charge of a violation of subdivision one of this section is not
18 warranted, he or she may consent, and the court may allow, a disposition
19 by a plea of guilty to another charge in satisfaction of such charge.

20 8. Enforcement upon crash. Notwithstanding any provision of this
21 section, no part of this section may be enforced unless in conjunction
22 with a crash involving an operator of an electric scooter. For the
23 purposes of this subdivision, crash shall mean falling to the ground or
24 colliding with a vehicle, person, building or other object.

25 § 5. This act shall take effect immediately.

26 PART BBB

27 Section 1. Section 410 of the economic development law is REPEALED.

28 § 2. Section 3102-b of public authorities law, as added by chapter 562
29 of the laws of 1982 and as renumbered by chapter 291 of the laws of
30 1990, the opening paragraph as amended by chapter 616 of the laws of
31 1991, paragraph (a) of subdivision 1, subdivision 3 and paragraph (a) of
32 subdivision 6 as amended by chapter 191 of the laws of 2010, subdivi-
33 sions 5 and 6 as added by chapter 828 of the laws of 1987, is amended to
34 read as follows:

35 § 3102-b. Centers for advanced technology. In order to encourage
36 greater collaboration between private industry and the universities of
37 the state in the development and application of new technologies, the
38 [~~foundation~~] department of economic development (hereinafter "depart-
39 ment") is authorized to designate for advanced technology such areas as
40 integrated electronics, optics, biotechnology, telecommunications, auto-
41 mation and robotics, electronics packaging, imaging technology and
42 others identified by the [~~foundation~~] department as having significant
43 potential for economic growth in New York, or in which the application
44 of new technologies could significantly enhance the productivity and
45 stability of New York businesses. Such designations shall be made in
46 accordance with the standards and criteria set forth in subdivision two
47 of this section. Centers so designated shall be eligible for support
48 from the [~~foundation~~] department in the manner provided for in subdivi-
49 sion three of this section, and for such additional support as may
50 otherwise be provided by law.

51 1. As used in this section:

52 (a) "center for advanced technology" or "center" means a university or
53 university-affiliated research institute or a consortium of such insti-
54 tutions, designated by the [~~foundation~~] department, which conducts a

1 continuing program of basic and applied research, development, and tech-
2 nology commercialization in one or more technological areas, in collab-
3 oration with and through the support of private business and industry;
4 and

5 (b) "applicant" means a university or university-affiliated research
6 institute or a consortium of such institutions which request designation
7 as a center in accordance with such requirements as are established by
8 the [~~foundation~~] department for this purpose. For the purposes of this
9 subdivision, universities, university-affiliated research institutes or
10 a consortium of such institutions designated as centers of excellence
11 under section four hundred ten of the economic development law at the
12 time of the effective date of the chapter of the laws of two thousand
13 twenty that amended this subdivision may apply for designation as
14 centers for advanced technology.

15 2. The [~~foundation~~] department shall:

16 (a) identify technological areas for which centers should be desig-
17 nated including technological areas that are related to industries with
18 significant potential for economic growth and development in New York
19 state and technological areas that are related to the enhancement of
20 productivity in various industries located in New York state.

21 (b) establish criteria that applicants must satisfy for designation as
22 a center, including, but not limited to the following:

23 (i) an established record of research, development and instruction in
24 the area or areas of technology involved;

25 (ii) the capacity to conduct research and development activities in
26 collaboration with business and industry;

27 (iii) the capacity to secure substantial private and other govern-
28 mental funding for the proposed center, in amounts at least equal to the
29 total of support sought from the state;

30 (iv) the ability and willingness to cooperate with other institutions
31 in the state in conducting research and development activities, and in
32 disseminating research results; and to work with technical and community
33 colleges in the state to enhance the quality of technical education in
34 the area or areas of technology involved;

35 (v) the ability and willingness to cooperate with the [~~foundation~~]
36 department and other economic development agencies in promoting the
37 growth and development in New York state of industries based upon or
38 benefiting from the area or areas of technology involved.

39 (c) establish such requirements as it deems appropriate for the
40 format, content and filing of applications for designation as centers
41 for advanced technology.

42 (d) establish such procedures as it deems appropriate for the evalu-
43 ation of applications for designation as centers for advanced technolo-
44 gy, including the establishment of peer review panels composed of
45 nationally recognized experts in the technological areas and industries
46 to which the application is related.

47 3. (a) From such funds as may be appropriated for this purpose by the
48 legislature, the [~~foundation~~] department may provide financial support,
49 through contracts or other means, to designated centers for advanced
50 technology, in order to enhance and accelerate the development of such
51 centers. Funds received pursuant to this subdivision may be used for
52 purchase of equipment and fixtures, employment of faculty and support
53 staff, provision of graduate fellowships, and other purposes approved by
54 the [~~foundation~~] department, but may not be used for capital
55 construction. In each case, the amount provided by the [~~foundation~~]

1 ~~department~~ to a center shall be matched by commitments of support from
2 private and governmental other than state sources provided that:

3 (i) funds or in-kind resources provided by the public or private
4 university of which the center is a part may be counted towards the
5 match;

6 (ii) such match shall not be required on a project-by-project basis;

7 (iii) matching funds received from businesses with no more than one
8 hundred employees shall count as double the actual dollar amount toward
9 the center's overall match requirement;

10 (iv) funds used by the center for any workforce development activities
11 required by the [~~foundation~~] ~~department~~ shall not be included as part of
12 the center's award when determining the amount of matching funds
13 required by the [~~foundation~~] ~~department~~. Such activities shall include,
14 but are not limited to, helping incumbent workers expand their skill
15 sets through short courses, seminars, and workshops; providing indus-
16 try-driven research assistant opportunities for students, and aiding in
17 the development of undergraduate and graduate courses in the center's
18 technology focus to help ensure that students are trained to meet the
19 needs of industry;

20 (v) centers may use not more than twenty-five percent of indirect
21 costs towards any match requirements.

22 (b) The amount provided by the [~~foundation~~] ~~department~~ shall be made
23 in accordance with the following:

24 (i) for the academic year in which it is first funded as a designated
25 center, and the five subsequent years, the amount provided by the [~~foun-~~
26 ~~dation~~] ~~department~~ to a center shall be matched equally by the center;

27 (ii) beginning in the sixth academic year following the academic year
28 in which a center is first funded as a designated center and for each
29 academic year thereafter, amounts provided by the [~~foundation~~] ~~depart-~~
30 ~~ment~~ of up to seven hundred fifty thousand dollars shall be matched
31 equally by the center, amounts in excess of seven hundred fifty thousand
32 dollars shall be matched by the center in amounts of at least the
33 percentage set forth herein: in the sixth year, one hundred twenty
34 percent; in the seventh year, one hundred forty percent; in the eighth
35 year, one hundred sixty percent; in the ninth year, one hundred eighty
36 percent; in the tenth year and each year thereafter, two hundred
37 percent;

38 (iii) beginning in the ninth academic year following the academic year
39 in which a center is first funded as a designated center, the [~~foun-~~
40 ~~dation~~] ~~department~~ shall evaluate such center's area of advanced technolo-
41 gy to determine whether it has continued significant potential for
42 enhancing economic growth in New York, or whether the application of
43 technologies in the area could significantly enhance the productivity
44 and stability of New York businesses;

45 (iv) upon a finding by the [~~foundation~~] ~~department~~ that an area of
46 advanced technology has continued significant potential for enhancing
47 economic growth in New York, or that the application of technologies in
48 the area could significantly enhance the productivity and stability of
49 New York businesses, the [~~foundation~~] ~~department~~ will initiate a redesi-
50 gnation process in accordance with the standards and criteria set forth
51 in paragraph (b) of subdivision two and in accordance with paragraphs
52 (c) and (d) of subdivision two of this section.

53 (1) In the event a new center is selected in the redesignation proc-
54 ess, the [~~foundation~~] ~~department~~ shall provide funds to such new center
55 in accordance with the funding match requirements set forth in subpara-
56 graphs (i) and (ii) of paragraph (a) of this subdivision.

(2) In the event a previously designated center is redesignated in the same area of technology, which redesignation is effective for the tenth academic year following the first academic year of both designation and funding, then, in that year and in each year thereafter, the [~~foundation~~] department shall provide funds of up to seven hundred fifty thousand dollars to be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least two hundred percent.

(3) In the event a currently designated center is not selected in the redesignation process for an additional term, or upon a finding by the [~~foundation~~] department that the area of advanced technology does not have significant potential for enhancing economic growth in New York, or upon a finding that the application of technologies in that area would not significantly enhance the productivity and stability of New York businesses, then the [~~foundation~~] department shall, in the tenth academic year following such center's first both designation and funding, which year shall be the final year of funding for such center, provide an amount of up to five hundred thousand dollars.

(c) Continued funding of the operations of each center shall be based upon a showing that: the center continues to comply with the criteria established by the [~~foundation~~] department pursuant to paragraph (b) of subdivision two of this section; a demonstration of assistance to small businesses in New York state through research, technology transfer or other means as approved by the [~~foundation~~] department; evidence of partnerships with other appropriate entities to develop outreach networks and ensure that companies receive access to appropriate federal funding for technology development and commercialization as well as non-research assistance such as general business consulting. Appropriate partners are those with which the center demonstrates a relationship that enhances and advances the center's ability to aid economic growth in New York state; and compliance with the rules, regulations and guidelines of the [~~foundation~~] department; and, compliance with any contracts between the [~~foundation~~] department and the designated center.

(d) Each center shall report on its activities to the [~~foundation~~] department in a manner and according to the schedule established by the [~~foundation~~] department, and shall provide such additional information as the [~~foundation~~] department may require provided, that quantifiable economic development impact measures are not restricted to any period less than five years and that centers provide a full description of all non-quantifiable measures. The [~~foundation~~] department shall evaluate center operations using methods such as site visits, reporting of specified information and peer review evaluations using experts in the field of technology in which the center was designated. The [~~foundation~~] department shall notify each center of the results of its evaluations and findings of deficiencies in the operation of such center or its research, education, or technology commercialization activities and shall work with such centers to remedy such findings. If such factors are not remedied, the [~~foundation~~] department may withdraw the state funding support, in whole or in part, or withdraw the center designation.

(e) In order to encourage that the results of center research benefit New York state, designation and continued funding of each center shall be contingent upon each center's establishing within its licensing guidelines the following: after payment of the inventor's share, a reduced payment due to the university of any royalty, income or other consideration earned from the license or sale of intellectual property

1 rights created or developed at, or through the use of, the facilities of
2 the center by any person or entity if the manufacturing or use resulting
3 from such intellectual property rights occurs within New York state. The
4 ~~[foundation]~~ department shall promulgate rules and regulations regarding
5 the provisions of the licensing guidelines described herein as they
6 apply to such reduced payment, and such provisions shall be subject to
7 the approval of the ~~[foundation]~~ department.

8 4. From such funds as may be appropriated for this purpose by the
9 legislature, the ~~[foundation]~~ department may provide grants to any one
10 university or university-affiliated research institution for purposes of
11 planning and program development aimed at enabling such university or
12 university-affiliated research institution to qualify for designation as
13 a center. Such grants shall be awarded on a competitive basis, and shall
14 be available only to those applicants which in the judgment of the
15 ~~[foundation]~~ department may reasonably be expected to be designated as
16 centers. No applicant shall receive more than one such grant.

17 5. (a) From such funds as may be appropriated for the purpose of
18 incentive grants or other funds which may be available from the ~~[founda-~~
19 ~~tion]~~ department to enhance center activities in areas of crucial inter-
20 est in the state's economic development, the ~~[foundation]~~ department may
21 provide grants, on a competitive basis, to centers for projects includ-
22 ing, but not limited to, those which:

23 (i) explore new technologies with commercial application conducted
24 jointly by two or more centers or a center and non-center university,
25 college or community college;

26 (ii) are aimed at enhancing or accelerating the process of bringing
27 new products, particularly those under development by new small busi-
28 nesses, to the marketplace; or

29 (iii) increase technology transfer projects with the state's mature
30 manufacturing industries in applying technology in their manufacturing
31 processes or for new product development.

32 (b) State support for incentive grants may be matched on an individual
33 basis by the ~~[foundation]~~ department, which may consider the type of
34 project and the availability of amounts from private, university and
35 governmental, other than state, sources.

36 6. (a) The ~~[foundation]~~ department shall make an annual report of the
37 centers for advanced technology program to the governor and the legisla-
38 ture not later than September first of each year. Such report shall
39 include, but not be limited to, the results of the ~~[foundation's]~~
40 department's evaluation of each center, a description of the achievement
41 of each center, any deficiencies in the operation of each center or its
42 research, education and technology commercialization activities, remedi-
43 al actions recommended by the ~~[foundation]~~ department, remedial actions
44 taken by each center, a description of the small business assistance
45 provided by each center, a description of any incentive grant program
46 awarded a grant by the ~~[foundation]~~ department and the achievements of
47 such program, and the amount of financial assistance provided by the
48 ~~[foundation]~~ department and the level of matching funds provided by each
49 center and the uses of such monies.

50 (b) Annual reports shall include a discussion of any fields of tech-
51 nology that the ~~[foundation]~~ department has identified as having signif-
52 icant potential for economic growth or improved productivity and stabil-
53 ity of New York businesses and in which no center for advanced
54 technology has been designated and recommendations of the ~~[foundation]~~
55 department as to actions that should be taken.

§ 3. This act shall take effect immediately; provided, however that section one of this act shall not take effect until June 30, 2021.

PART CCC

Section 1. Subsections (e) and (g) of section 7002 of the insurance law, as amended by chapter 188 of the laws of 2003, are amended to read as follows:

(e) "Industrial insured" means an insured:

(1) whose net worth exceeds one hundred million dollars;

(2) who is a member of a holding company system whose net worth exceeds one hundred million dollars;

(3) who is the metropolitan transportation authority and its statutory subsidiaries. When filing an application to form a pure captive insurance company the metropolitan transportation authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; ~~or~~

(4) who is the power authority of the state of New York and any statutory subsidiary or affiliate thereof. When filing an application to form a pure captive insurance company the power authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; or

(5) who is a city with a population of one million or more. When filing an application to form a pure captive insurance company, a city with a population of one million or more shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly.

(g) "Industrial insured group" means any group of unaffiliated industrial insureds that are engaged in similar or related businesses or activities, however, the metropolitan transportation authority, the power authority of the state of New York and any statutory subsidiary or affiliate thereof and cities with a population of one million or more shall not be a member of an industrial insured group, and that collectively:

(1) own, control or hold with power to vote all of the outstanding voting shares of stock of a group captive insurance company incorporated as a stock insurer; or

(2) represent one hundred percent of the voting members of a group captive insurance company organized as a mutual insurer.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 28 to read as follows:

28. The authority may establish a subsidiary corporation for the purpose of forming a pure captive insurance company as provided in section seven thousand two of the insurance law. The members of such subsidiary corporation of the authority shall be the same persons holding the offices of members of the authority. Such subsidiary corporation shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. The subsidiary corporation of the authority shall be subject to suit in accordance with section one thousand seventeen of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

§ 3. Subdivision (a) of section 1500 of the tax law, as amended by section 21 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund" contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, the power authority of New York or any statutory subsidiary or affiliate thereof, or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local; and provided further "insurance corporation" does not include any combinable captive insurance company. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law. The term "insurance corporation" also includes a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law.

§ 4. Subdivision (a) of section 1502-b of the tax law, as amended by section 22 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) In lieu of the taxes and tax surcharge imposed by sections fifteen hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen hundred ten of this article, every captive insurance company licensed by the superintendent of financial services pursuant to the provisions of article seventy of the insurance law, other than the metropolitan transportation authority, the power authority of New York or any statutory subsidiary or affiliate thereof, and a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, and other than combinable captive insurance company, shall, for the privilege of exercising its corporate franchise, pay a tax on (1) all gross direct premiums, less return premiums thereon, written on risks located or resident in this state and (2) all assumed reinsurance premiums, less return premiums thereon, written on risks located or resident in this state. The rate of the tax imposed on gross direct premiums shall be four-tenths of one percent on all or any part of the first twenty million dollars of premiums, three-tenths of one percent on all or any part of the second twenty million dollars of premiums, two-tenths of one

1 percent on all or any part of the third twenty million dollars of premi-
2 ums, and seventy-five thousandths of one percent on each dollar of
3 premiums thereafter. The rate of the tax on assumed reinsurance premiums
4 shall be two hundred twenty-five thousandths of one percent on all or
5 any part of the first twenty million dollars of premiums, one hundred
6 and fifty thousandths of one percent on all or any part of the second
7 twenty million dollars of premiums, fifty thousandths of one percent on
8 all or any part of the third twenty million dollars of premiums and
9 twenty-five thousandths of one percent on each dollar of premiums there-
10 after. The tax imposed by this section shall be equal to the greater of
11 (i) the sum of the tax imposed on gross direct premiums and the tax
12 imposed on assumed reinsurance premiums or (ii) five thousand dollars.

13 § 5. This act shall take effect immediately.

14 PART DDD

15 Section 1. Legislative findings and intent. The legislature hereby
16 finds, determines and declares the following:

17 The planning, development and operation of the Hudson River Park as a
18 public park continues to be a matter of importance to the state. As
19 detailed in the 1998 law creating the park and the trust, chapter 592 of
20 the laws of 1998, the creation, development, operation and maintenance
21 of the Hudson River Park will enhance and protect the natural, cultural
22 and historic aspects of the Hudson River, enhance and afford quality
23 public access to the river, allow for an array of cultural and recre-
24 ational programs and provide a host of other public benefits. The chang-
25 es to the 1998 law by this act are intended to, after decades of delay
26 and inaction, finally effectuate the park's general project plan as
27 defined in chapter 592 of the laws of 1998, which continues to be the
28 operative planning document guiding park development, protection and
29 reuse of a portion of the Hudson River waterfront in lower Manhattan
30 south of 59th street, and are intended to ensure the realization of that
31 vision and the park's continuing viability for years to come. Nothing
32 herein is intended to alter or override any prior determinations
33 concerning park planning, development or operation.

34 § 2. Paragraph (c) of subdivision 9 of section 7 of chapter 592 of the
35 laws of 1998, constituting the Hudson river park act, as amended by
36 chapter 517 of the laws of 2013, is amended to read as follows:

37 ~~(c) [The city of New York shall use best efforts to relocate the tow~~
38 ~~pound on Pier 76. Subsequent to relocation of the tow pound, the city of~~
39 ~~New York shall promptly convey to the trust a possessory interest in~~
40 ~~Pier 76 consistent with such interest previously conveyed with respect~~
41 ~~to other portions of the park, provided that at least fifty percent of~~
42 ~~the Pier 76 footprint shall be used for park uses that are limited to~~
43 ~~passive and active open space and which shall be contiguous to water and~~
44 ~~provided further that the remaining portion shall be for park/commercial~~
45 ~~use. Upon such conveyance, Pier 76 shall become part of the park.] (i)~~
46 On or before December 31, 2020, the city of New York shall convey to the
47 trust a possessory interest in Pier 76 consistent with such interest
48 previously conveyed with respect to other portions of the park. Upon
49 such conveyance, Pier 76 shall become part of the park and following
50 redevelopment at least fifty percent of the Pier 76 footprint shall be
51 used for park uses that are limited to passive and active open space and
52 which shall be contiguous to water; and provided further that the
53 remaining portion shall be for park/commercial use. (ii) The city of New
54 York shall, prior to December 31, 2020, cease using Pier 76 for any

1 purposes. Should the city of New York continue to occupy Pier 76 for any
2 purpose subsequent to the conveyance of December 31, 2020, the city of
3 New York shall (A) compensate the trust in the amount of twelve million
4 dollars, and (B) beginning February 1, 2021, pay rent in the amount of
5 three million dollars for each complete or partial month of occupancy.
6 (iii) On or after the effective date of the chapter of the laws of 2020
7 which amended this paragraph, the trust shall be entitled to reasonable
8 access to Pier 76 for the purpose of conducting assessments and
9 inspections necessary to further redevelopment of Pier 76 following its
10 inclusion in the park.

11 § 3. This act shall take effect immediately.

12 PART EEE

13 Section 1. Section 5 of chapter 451 of the laws of 2017, enacting the
14 New York Buy American Act, is amended to read as follows:

15 § 5. This act shall take effect April 1, 2018 and shall apply to any
16 state contracts executed and entered into on or after such date and
17 shall exclude such contracts that have been previously awarded or have
18 pending bids or pending requests for proposals issued as of April 1,
19 2018, and shall not apply to projects that have commenced project design
20 and environmental studies prior to such date~~[, provided, however, that~~
21 ~~this act shall expire and be deemed repealed April 15, 2020]~~.

22 § 2. This act shall take effect immediately.

23 PART FFF

24 Section 1. The labor law is amended by adding a new section 224-a to
25 read as follows:

26 § 224-a. Prevailing wage requirements applicable to construction
27 projects performed under private contract. 1. Subject to the provisions
28 of this section, each "covered project" as defined in this section shall
29 be subject to prevailing wage requirements in accordance with section
30 two hundred twenty and two hundred twenty-b of this article. A "covered
31 project" shall mean construction work done under contract which is paid
32 for in whole or in part out of public funds as such term is defined in
33 this section where the amount of all such public funds, when aggregated,
34 is at least thirty percent of the total construction project costs and
35 where such project costs are over five million dollars except as
36 provided for by section two hundred twenty-four-c of this article.

37 2. For purposes of this section, "paid for in whole or in part out of
38 public funds" shall mean any of the following:

39 a. The payment of money, by a public entity directly to or on behalf
40 of the contractor, subcontractor, developer or owner that is not subject
41 to repayment;

42 b. The savings achieved from fees, rents, interest rates, or other
43 loan costs, or insurance costs that are lower than market rate costs;
44 savings from reduced taxes as a result of tax credits, tax abatements,
45 tax exemptions or tax increment financing; and any other savings from
46 reduced, waived, or forgiven costs that would have otherwise been at a
47 higher or market rate but for the involvement of the public entity;

48 c. Money loaned by the public entity that is to be repaid on a contin-
49 gent basis; or

50 d. Credits that are applied by the public entity against repayment of
51 obligations to the public entity.

1 3. For purposes of this section, "paid for in whole or in part out of
2 public funds" shall not include:

3 a. Benefits under section four hundred twenty-one-a of the real prop-
4 erty tax law;

5 b. Funds that are not provided primarily to promote, incentivize, or
6 ensure that construction work is performed, which would otherwise be
7 captured in subdivision two of this section;

8 c. Funds used to incentivize or ensure the development of a comprehen-
9 sive sewage system, including connection to existing sewer lines or
10 creation of new sewage lines or sewer capacity, provided, however, that
11 such work shall be deemed to be a public work covered under the
12 provisions of this article;

13 d. tax benefits provided for projects the value of which are not able
14 to be calculated at the time the work is to be performed; and

15 e. any other public monies, credits, savings or loans, determined by
16 the public subsidy board created in section two hundred twenty-four-c of
17 this article as exempt from this definition.

18 4. For purposes of this section "covered project" shall not include
19 any of the following:

20 a. Construction work on one or two family dwellings where the property
21 is the owner's primary residence, or construction work performed on
22 property where the owner of the property owns no more than four dwelling
23 units;

24 b. Construction work performed under a contract with a not-for-profit
25 corporation as defined in section one hundred two of the not-for-profit
26 corporation law, other than a not-for-profit corporation formed exclu-
27 sively for the purpose of holding title to property and collecting
28 income thereof or a local development corporation formed pursuant to
29 section fourteen hundred eleven of the not-for-profit corporation law,
30 where the not-for-profit corporation has gross annual revenue and
31 support less than five million dollars;

32 c. Construction work performed on a multiple residence and/or ancil-
33 lary amenities or installations that is wholly privately owned in any of
34 the following circumstances except as provided for by section two
35 hundred twenty-four-c of this article:

36 (i) where no less than thirty percent of the residential units are
37 affordable for households up to eighty percent of the area median
38 income, provided that area median income shall be adjusted for family
39 size, as calculated by the United States department of housing and urban
40 development, provided that the period of affordability for a residential
41 unit deemed affordable under the provisions of this paragraph shall be
42 for no less than fifteen years from the date of construction; or

43 (ii) where no less than thirty-five percent of the residential units
44 involves the provision of supportive housing services for vulnerable
45 populations;

46 (iii) where construction work is performed on a building paid for in
47 whole or in part out of public funds on affordable units for purposes of
48 ensuring that the affordable units are created or retained and are
49 subject to a regulatory agreement with a local, state, or federal
50 governmental entity; or

51 (iv) any other affordable or subsidized housing as determined by the
52 public subsidy board established by section two hundred twenty-four-c of
53 this article.

54 d. Construction work performed on a manufactured home park as defined
55 in paragraph three of subdivision a of section two hundred thirty-three
56 of the real property law where the manufactured home park is subject to

1 a regulatory agreement with a local, state, or federal governmental
2 entity for no less than fifteen years;

3 e. Construction work performed under a pre-hire collective bargaining
4 agreement between an owner or contractor and a bona fide building and
5 construction trade labor organization which has established itself as
6 the collective bargaining representative for all persons who will
7 perform work on such a project, and which provides that only contractors
8 and subcontractors who sign a pre-negotiated agreement with the labor
9 organization can perform work on such a project, or construction work
10 performed under a labor peace agreement, project labor agreement, or any
11 other construction work performed under an enforceable agreement between
12 an owner or contractor and a bona fide building and construction trade
13 labor organization;

14 f. Construction work performed on projects funded by section sixteen-n
15 of the urban development corporation act or the downtown revitalization
16 initiative;

17 g. Construction work and engineering and consulting services performed
18 in connection with the installation of a renewable energy system, renew-
19 able heating or cooling system, or energy storage system, with a capaci-
20 ty equal to or under five megawatts alternating current;

21 h. Construction work performed on supermarket retail space built or
22 renovated with tax incentives provided under the food retail expansion
23 to support health (FRESH) program through the New York city industrial
24 development agency;

25 i. Construction work performed for interior fit-outs and improvements
26 under ten thousand square feet through small business incubation
27 programs operated by the New York city economic development corporation;

28 j. Construction work on space to be used as a school under twenty
29 thousand square feet, pursuant to a lease from a private owner to the
30 New York city department of education and the school construction
31 authority; or

32 k. Construction work performed on projects that received tax benefits
33 related to brownfield remediation, brownfield redevelopment, or historic
34 rehabilitation pursuant to sections twenty-one, twenty-two, one hundred
35 eighty-seven-g or one hundred eighty-seven-h of the tax law, subdivi-
36 sions seventeen, eighteen, or twenty-six of section two hundred ten-B of
37 the tax law, subsections (dd), (ee), (oo) or (pp) of section six hundred
38 six of the tax law, or subdivisions (u), (v) or (y) of section fifteen
39 hundred eleven of the tax law.

40 5. For purposes of this section, "public entity" shall include, but
41 shall not be limited to, the state, a local development corporation as
42 defined in subdivision eight of section eighteen hundred one of the
43 public authorities law or section fourteen hundred eleven of the not-
44 for-profit corporation law, a municipal corporation as defined in
45 section one hundred nineteen-n of the general municipal law, an indus-
46 trial development agency formed pursuant to article eighteen-A of the
47 general municipal law or industrial development authorities formed
48 pursuant to article eight of the public authorities law, and any state,
49 local or interstate or international authorities as defined in section
50 two of the public authorities law; and shall include any trust created
51 by any such entities.

52 6. For purposes of this section, "construction" means work which shall
53 be as defined by the public subsidy board to require payment of prevail-
54 ing wage, and which may involve the employment of laborers, workers, or
55 mechanics.

1 7. For purposes of this section and section two hundred twenty-four-b
2 of this article, the "fiscal officer" shall be deemed to be the commis-
3 sioner.

4 8. The enforcement of any construction work deemed to be a covered
5 project pursuant to this section, and any additional requirements, shall
6 be subject, in addition to this section, only to the requirements of
7 sections two hundred twenty, two hundred twenty-four-b, two hundred
8 twenty-four-c, and two hundred twenty-b of this article and within the
9 jurisdiction of the fiscal officer; provided, however, nothing contained
10 in this section shall be deemed to construe any covered project as
11 otherwise being considered public work pursuant to this article; and
12 further provided:

13 a. The owner or developer of such covered project shall certify under
14 penalty of perjury within five days of commencement of construction work
15 whether the project at issue is subject to the provisions of this
16 section through the use of a standard form developed by the fiscal offi-
17 cer.

18 b. The owners or developers of a property who are undertaking a
19 project under private contract, may seek guidance from the public subsi-
20 dy board contained in section two hundred twenty-four-c of this article,
21 and such board may render an opinion as to whether or not the project is
22 a covered project within the meaning of this article. Any such determi-
23 nation shall not be reviewable by the fiscal officer, nor shall it be
24 reviewable by the department pursuant to section two hundred twenty of
25 this article.

26 c. The owner or developer of a covered project shall be responsible
27 for retaining original payroll records in accordance with section two
28 hundred twenty of this article for a period of six years from the
29 conclusion of such work. All payroll records maintained by an owner or
30 developer pursuant to this section shall be subject to inspection on
31 request of the fiscal officer. Such owner or developer may authorize
32 the prime contractor of the construction project to take responsibility
33 for retaining and maintaining payroll records, but will be held jointly
34 and severally liable for any violations of such contractor. All records
35 obtained by the fiscal officer shall be subject to the Freedom of Infor-
36 mation Law.

37 d. Each public entity providing any of the public funds listed in
38 subdivision two of this section to an owner, developer, contractor or
39 subcontractor of a project shall identify the nature and dollar value of
40 such funds and whether any such funds are excluded under subdivision
41 three of this section and shall so notify the recipient of such funds of
42 such determination and of their obligations under paragraph a of this
43 subdivision.

44 e. The fiscal officer may issue rules and regulations governing the
45 provisions of this section. Violations of this section shall be grounds
46 for determinations and orders pursuant to section two hundred twenty-b
47 of this article.

48 9. Each owner and developer subject to the requirements of this
49 section shall comply with the objectives and goals of minority and
50 women-owned business enterprises pursuant to article fifteen-A of the
51 executive law and service-disabled veteran-owned businesses pursuant to
52 article seventeen-B of the executive law. The department in consulta-
53 tion with the directors of the division of minority and women's business
54 development and of the division of service-disabled veterans' business
55 development shall make training and resources available to assist minor-
56 ity and women-owned business enterprises and service-disabled veteran-

1 owned business enterprises on covered projects achieve and maintain
2 compliance with prevailing wage requirements. The department shall make
3 such training and resources available online and shall afford minority
4 and women-owned business enterprises and service-disabled veteran-owned
5 business enterprises an opportunity to submit comments on such training.

6 10. a. The fiscal officer shall report to the governor, the temporary
7 president of the senate, and the speaker of the assembly by July first,
8 two thousand twenty-two, and annually thereafter, on the participation
9 of minority and women-owned business enterprises in relation to covered
10 projects and contracts for public work subject to the provisions of this
11 section and section two hundred twenty of this article respectively as
12 well as the diversity practices of contractors and subcontractors
13 employing laborers, workers, and mechanics on such projects.

14 b. Such reports shall include aggregated data on the utilization and
15 participation of minority and women-owned business enterprises, the
16 employment of minorities and women in construction-related jobs on such
17 projects, and the commitment of contractors and subcontractors on such
18 projects to adopting practices and policies that promote diversity with-
19 in the workforce. The reports shall also examine the compliance of
20 contractors and subcontractors with other equal employment opportunity
21 requirements and anti-discrimination laws, in addition to any other
22 employment practices deemed pertinent by the commissioner.

23 c. The fiscal officer may require any owner or developer to disclose
24 information on the participation of minority and women-owned business
25 enterprises and the diversity practices of contractors and subcontrac-
26 tors involved in the performance of any covered project. It shall be
27 the duty of the fiscal officer to consult and to share such information
28 in order to effectuate the requirements of this section.

29 11. If construction work is not deemed to be a covered project, wheth-
30 er by virtue of an exclusion of such project under subdivision four of
31 this section, or by virtue or not receiving sufficient public money to
32 be deemed "paid for in whole or in part out of public funds", such
33 project shall not be subject to the requirements of sections two hundred
34 twenty and two hundred twenty-b of this article.

35 § 2. The labor law is amended by adding two new sections 224-b and
36 224-c to read as follows:

37 § 224-b. Stop-work orders. Where a complaint is received pursuant to
38 this article, or where the fiscal officer upon his or her own investi-
39 gation, finds cause to believe that any person, in connection with the
40 performance of any contract for public work pursuant to section two
41 hundred twenty of this article or any covered project pursuant to
42 section two hundred twenty-four-a of this article, has substantially and
43 materially failed to comply with or intentionally evaded the provisions
44 of this article, the fiscal officer may notify such person in writing of
45 his or her intention to issue a stop-work order. Such notice shall (i)
46 be served in a manner consistent with section three hundred eight of the
47 civil practice law and rules; (ii) notify such person of his or her
48 right to a hearing; and (iii) state the factual basis upon which the
49 fiscal officer has based his or her decision to issue a stop-work order.
50 Any documents, reports, or information that form a basis for such deci-
51 sion shall be provided to such person within a reasonable time before
52 the hearing. Such hearing shall be expeditiously conducted.

53 Following the hearing, if the fiscal officer issues a stop-work order,
54 it shall be served by regular mail, and a second copy may be served by
55 telefacsimile or by electronic mail, with service effective upon receipt
56 of any such order. Such stop-work order shall also be served with regard

1 to a worksite by posting a copy of such order in a conspicuous location
2 at the worksite. The order shall remain in effect until the fiscal offi-
3 cer directs that the stop-work order be removed, upon a final determi-
4 nation on the complaint or where such failure to comply or evade has
5 been deemed corrected. If the person against whom such order is issued
6 shall within thirty days after issuance of the stop-work order makes an
7 application in affidavit form for a redetermination review of such order
8 the fiscal officer shall make a decision in writing on the issues raised
9 in such application. The fiscal officer may direct a conditional release
10 from a stop-work order upon a finding that such person has taken mean-
11 ingful and good faith steps to comply with the provisions of this arti-
12 cle.

13 § 224-c. Public subsidy board. 1. A board on public subsidies, hereinafter
14 "the board", is hereby created, to consist of eleven members. The
15 eleven members shall be appointed by the governor as follows: one member
16 upon the recommendation of the temporary president of the senate, one
17 member upon the recommendation of the speaker of the assembly, the
18 commissioner, the president of the empire state development corporation,
19 the director of the division of the budget, one person representing
20 employees in the construction industry, and one person representing
21 employers in the construction industry. The commissioner shall act as
22 the chair. The members shall serve at the pleasure of the authority
23 recommending, designating, or otherwise appointing such member and shall
24 serve without salary or compensation but shall be reimbursed for neces-
25 sary expenses incurred in the performance of their duties.

26 2. The board shall meet on an as needed basis and shall have the power
27 to conduct public hearings. The board may also consult with employers
28 and employees, and their respective representatives, in the construction
29 industry and with such other persons, including the commissioner, as it
30 shall determine. No public officer or employee appointed to the board
31 shall forfeit any position or office by virtue of appointment to such
32 board. Any proceedings of the board which relate to a particular indi-
33 vidual or project shall be confidential.

34 3. The board may examine and make recommendations which shall have the
35 full force and effect of law, regarding the following:

36 (a) the minimum threshold percentage of public funds set forth in
37 paragraph c of subdivision one of section two hundred twenty-four-a of
38 this article;

39 (b) the minimum dollar threshold of projects set forth in paragraph c
40 of subdivision one of section two hundred twenty-four-a of this article;

41 (c) construction work excluded as a covered project, as set forth in
42 subparagraphs (i), (ii) and (iii) of paragraph c of subdivision four of
43 section two hundred twenty-four-a of this article;

44 (d) the definition of construction for purposes of section two hundred
45 twenty-four-a of this article; or

46 (e) particular instances of benefits, monies or credits as to whether
47 or not they should constitute public funds.

48 4. In making its recommendations, the board shall examine the impact
49 of such thresholds and circumstances on private development in light of
50 available public subsidies, existing labor market conditions, prevailing
51 wage and supplement practices, and shall consider the extent to which
52 adjustments to such thresholds and circumstances could ameliorate
53 adverse impacts, if any, or expand opportunities for prevailing wage and
54 supplement standards on publicly subsidized private construction
55 projects in any region or regions of the state.

5. The board shall be empowered to issue binding determinations to any public entity, or any private or not-for-profit owner or developer as to any particular matter related to an existing or potential covered project. In such instances the board shall make a determination based upon documents, or testimony, or both in its sole discretion. Any such proceeding shall be confidential. The determination issued by the board shall be final, and may not be appealed to the commissioner, nor shall any private right of action accrue to any individual to enforce the terms of this article.

§ 3. The labor law is amended by adding a new section 813-a to read as follows:

§ 813-a. Annual reports by apprenticeship programs. 1. On an annual basis, all apprenticeship programs covered under the provisions of this article shall report to the department on the participation of apprentices currently enrolled in such apprenticeship program. The data to be included in such report shall include, at a minimum: (a) the total number of apprentices in such apprenticeship program; (b) the demographic information of such apprentices to the extent such data is available, including, but not limited to, the age, gender, race, ethnicity, and national origin of such apprentices; (c) the rate of advancement and graduation of such apprentices; and (d) the rate of placement of such apprentices onto job sites as well as the demographic information of such apprentices to the extent such data is available, including, but not limited to the age, gender, race, ethnicity, and national origin of such apprentices.

2. The department shall make such data publicly available on its website by July first, two thousand twenty-two and on an annual basis, but no later than December thirty-first of each following year.

3. The commissioner may promulgate rules and regulations necessary for the implementation of this section.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, or section 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, or section 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.

§ 5. This act shall take effect on July 1, 2021 and shall apply to contracts for construction executed, incentive agreements executed, procurements or solicitations issued, or applications for building permits on or after such date; provided however that this act shall not apply to any appropriations of public funds made prior to the day on which this act shall have become a law, or to re-appropriations of such funds first appropriated prior to the day on which this act shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART GGG

Section 1. The legislature hereby establishes the New York digital marketplace worker classification task force (hereinafter referred to as the "task force") to provide the governor and the legislature with a

1 legislative recommendation addressing the conditions of employment and
2 classification of workers in the modern economy of on-demand workers
3 connected to customers via the internet.

4 § 2. 1. The task force shall consist of nine members to be appointed
5 as follows:

- 6 a. seven members appointed by the governor;
- 7 b. one member appointed by the temporary president of the senate; and
- 8 c. one member appointed by the speaker of the assembly.

9 2. The members of the task force shall include but not be limited to
10 representatives of businesses impacted, labor groups and workers.

11 3. The members of the task force shall receive no compensation for
12 their services but shall be allowed their actual and necessary expenses
13 incurred in the performance of their duties pursuant to this act.

14 4. Any vacancies in the membership of the task force shall be filled
15 in the same manner provided for in the initial appointment.

16 5. The task force may consult with any organization, government enti-
17 ty, or person, in the development of its legislative recommendation
18 report required under section three of this act.

19 § 3. On or before May 1, 2020, the task force shall submit to the
20 governor, the temporary president of the senate and the speaker of the
21 assembly, a legislative recommendation containing, but not limited to,
22 the following:

- 23 a. the necessary wages sufficient to provide adequate maintenance and
24 to protect the health of the workers engaged in work in the modern econ-
25 omy, addressing specific categories of benefits available to workers;
- 26 b. the proper classification of workers;
- 27 c. the criteria necessary to determine if a worker is an employee;
- 28 d. laws regulating safety and health for workers currently classified
29 as independent contractors;
- 30 e. collective bargaining;
- 31 f. the availability of anti-discrimination, opportunity and privacy
32 protections for workers currently classified as independent contractors;
33 and
- 34 g. any other statutory changes necessary.

35 § 4. The labor law is amended by adding a new section 44 to read as
36 follows:

37 § 44. Classification of digital marketplace workers. a. For purposes
38 of this section, "digital marketplace company" means an organization,
39 including, but not limited to a corporation, limited liability company,
40 partnership, sole proprietor, or any other entity, that operates a
41 website or smartphone application, or both, that customers use to
42 purchase, schedule and/or otherwise arrange services including, but not
43 limited to repair, maintenance, construction, painting, assembly, clean-
44 ing, laundry, housekeeping, delivery, transportation, cooking, tutoring,
45 massage, acupuncture, babysitting, home care, healthcare, first aid,
46 companionship, or instruction, and where such company utilizes one or
47 more individuals to provide such services. Such organization: (i) estab-
48 lishes the gross amounts earned by the individual providing such
49 services; (ii) establishes the amounts charged to the consumer; (iii)
50 collects payment from the consumer; (iv) pays the individual; or any
51 combination of the foregoing actions; and the individual may provide
52 such services in the name of the individual, or in the name of a busi-
53 ness, or as a separate business entity, and without regard the consumer
54 of such personal services may be an individual, business, other entity,
55 or any combination thereof. Provided, however, no governmental entity
56 shall be considered a digital marketplace company.

1 b. (1) The commissioner is hereby authorized to promulgate regulations
2 determining the appropriate classification of individuals providing
3 services for a digital marketplace company as defined in subdivision a
4 of this section and such regulations shall have the force and effect of
5 law.

6 (2) Such regulations shall set forth the appropriate standard for
7 determination of whether a worker should be classified as an employee or
8 an independent contractor, and shall consider the following conditions:

9 (i) whether the individual is free from the control and direction of the
10 digital marketplace company in connection with the performance of the
11 work; (ii) whether the individual performs work that is outside the
12 usual course of the digital marketplace company's business; and (iii)
13 whether the individual is customarily engaged in an independently estab-
14 lished trade, occupation, profession or business that is similar to the
15 service at issue.

16 (3) Workers classified as employees as provided for in this section or
17 who satisfy any other legal test for employment, or have been determined
18 by a court or administrative agency to be employees, shall not have any
19 rights or protections diminished by application of this section.

20 c. The commissioner may exempt any company from application of this
21 section, provided such company has entered into a collectively negoti-
22 ated agreement with a recognized collective bargaining agent.

23 § 5. This act shall take effect immediately; provided, however, that
24 section four of this act shall take effect May 1, 2020.

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

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