

STATE OF NEW YORK

S. 7508--A

A. 9508--A

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

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

AN ACT to amend the highway law and 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

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

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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 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 mechanisms 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); 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); to amend the general business law, in relation to extending the length of time temporary security guards can be used at specific events (Part HHH); to amend the New York state urban development corporation act, in relation to the corporations' authorization to provide financial and technical assist-

ance to community development financial institutions (Part III); and to amend the public service law, the economic development law, the real property tax law, the general municipal law, the public authorities law, the environmental conservation law, the New York state urban development corporation act and the state finance law, in relation to accelerating the growth of renewable energy facilities to meet critical state energy policy goals (Part JJJ)

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

12 PART A

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

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

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

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

37 § 3. This act shall take effect immediately.

38 PART B

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

4 (g) Notwithstanding the provisions of subdivisions (b) and (c) of this
5 section, a person convicted of a traffic infraction for a violation of
6 any ordinance, order, rule, regulation or local law adopted pursuant to
7 one or more of the following provisions of this chapter: paragraphs two
8 and nine of subdivision (a) of section sixteen hundred twenty-one;
9 subdivision three of section sixteen hundred thirty; or subdivision five
10 of section seventy-one of the transportation law, prohibiting the opera-
11 tion on a highway or parkway of a motor vehicle registered as a commer-
12 cial vehicle and having a gross vehicle weight rating of less than
13 ~~twenty-six~~ ten thousand pounds shall, for a first conviction thereof,
14 be punished by a fine of not more than two hundred fifty dollars or by
15 imprisonment of not more than fifteen days or by both such fine and
16 imprisonment; for a conviction of a second violation, both of which were
17 committed within a period of eighteen months, such person shall be
18 punished by a fine of not more than five hundred dollars or by imprison-
19 ment for not more than forty-five days or by both such fine and impri-
20 sonment; upon a conviction of a third or subsequent violation, all of
21 which were committed within a period of eighteen months, such person
22 shall be punished by a fine of not more than seven hundred fifty dollars
23 or by imprisonment of not more than ninety days or by both such fine and
24 imprisonment. Provided, however, the provisions of this subdivision
25 shall not apply to a commercial motor vehicle as such term is defined in
26 paragraph (a) of subdivision four of section five hundred one-a of this
27 chapter.

28 (h) Notwithstanding the provisions of subdivisions (b) and (c) of this
29 section, a person convicted of a traffic infraction for a violation of
30 any ordinance, order, rule, regulation or local law adopted pursuant to
31 one or more of the following provisions of this chapter: paragraphs two
32 and nine of subdivision (a) of section sixteen hundred twenty-one;
33 subdivision three of section sixteen hundred thirty; or subdivision five
34 of section seventy-one of the transportation law, prohibiting the opera-
35 tion on a highway or parkway of a motor vehicle registered as a commer-
36 cial vehicle and having a gross vehicle weight rating of at least ten
37 thousand pounds but no more than twenty-six thousand pounds shall, for a
38 first conviction thereof, be punished by a fine of not more than one
39 thousand dollars or by imprisonment of not more than fifteen days or by
40 both such fine and imprisonment; for a conviction of a second violation,
41 both of which were committed within a period of eighteen months, such
42 person shall be punished by a fine of not more than fifteen hundred
43 dollars or by imprisonment for not more than forty-five days or by both
44 such fine and imprisonment; upon a conviction of a third or subsequent
45 violation, all of which were committed within a period of eighteen
46 months, such person shall be punished by a fine of not more than two
47 thousand five hundred dollars or by imprisonment of not more than ninety
48 days or by both such fine and imprisonment; provided, however, the
49 provisions of this subdivision shall not apply to a commercial motor
50 vehicle as such term is defined in paragraph (a) of subdivision four of
51 section five hundred one-a of this chapter.

52 (i) Notwithstanding the provisions of subdivisions (b) and (c) of this
53 section, a person convicted of a traffic infraction for a violation of
54 any ordinance, order, rule, regulation or local law adopted pursuant to
55 one or more of the following provisions of this chapter: paragraphs two
56 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 subdivision, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

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

18. Except as provided in subdivision eighteen-a or nineteen of this section, the violation of the provisions of this section including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of this section, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

18-a. A violation of the provisions of subdivision two or fourteen of this section, where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not more than seven thousand five hundred dollars, or by imprisonment for not more than sixty days, or by both such fine and imprison-

ment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of this section, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.

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

PART C

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

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

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

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

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

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

b-1. In addition to the amber light authorized to be displayed pursuant to paragraph three of this subdivision, one or more blue lights or combination blue and amber lights may be affixed to a safety service patrol vehicle provided that such blue light or lights shall be displayed for rear projection only. Such blue light or lights may be displayed on a safety service patrol vehicle when such vehicle is also displaying amber light or lights pursuant to paragraph three of this subdivision. Nothing contained in this subparagraph shall be deemed to

1 authorize the use of blue lights on a safety service patrol vehicles
2 unless such safety service patrol vehicles also display one or more
3 amber lights as otherwise authorized in this subdivision.

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

7 (b) Every operator of a motor vehicle shall exercise due care to avoid
8 colliding with a hazard vehicle which is parked, stopped or standing on
9 the shoulder or on any portion of such highway and such hazard vehicle
10 is displaying one or more amber lights pursuant to the provisions of
11 paragraph three of subdivision forty-one of section three hundred seven-
12 ty-five of this chapter or, if such hazard vehicle is a safety service
13 patrol vehicle, such vehicle is displaying one or more amber lights or
14 one or more blue or combination blue and amber lights pursuant to the
15 provisions of paragraph three or subparagraph b-1 of paragraph four, as
16 applicable, of subdivision forty-one of section three hundred seventy-
17 five of this chapter. For operators of motor vehicles on parkways or
18 controlled access highways, such due care shall include, but not be
19 limited to, moving from a lane which contains or is immediately adjacent
20 to the shoulder where (i) such hazard vehicle displaying one or more
21 amber lights pursuant to the provisions of paragraph three of subdivi-
22 sion forty-one of section three hundred seventy-five of this chapter or
23 (ii) such safety service patrol vehicle displaying one or more amber
24 lights or one or more blue or combination and amber lights pursuant to
25 the provisions of paragraph three or subparagraph b-1 of paragraph four,
26 as applicable, of subdivision forty-one of section three hundred seven-
27 ty-five of this chapter, is parked, stopped or standing to another lane,
28 provided that such movement otherwise complies with the requirements of
29 this chapter including, but not limited to, the provisions of sections
30 eleven hundred ten and eleven hundred twenty-eight of this title.

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

33 PART D

34 Section 1. This act enacts into law components of legislation which
35 are necessary to implement legislation relating to enacting the slow
36 down and look out for highway workers and pedestrians act of 2020. Each
37 component is wholly contained within a Subpart identified as Subparts A
38 through C. The effective date for each particular provision contained
39 within such Subpart is set forth in the last section of such Subpart.
40 Any provision in any section contained within a Subpart, including the
41 effective date of the Subpart, which makes a reference to a section "of
42 this act", when used in connection with that particular component, shall
43 be deemed to mean and refer to the corresponding section of the Subpart
44 in which it is found. Section three of this act sets forth the general
45 effective date of this act.

46 SUBPART A

47 Section 1. Subdivisions 3 and 11 of section 120.05 of the penal law,
48 subdivision 3 as amended by chapter 267 of the laws of 2016, and subdivi-
49 sion 11 as separately amended by chapters 268 and 281 of the laws of
50 2016, are amended to read as follows:

51 3. With intent to prevent a peace officer, a police officer, prosecu-
52 tor as defined in subdivision thirty-one of section 1.20 of the criminal

1 procedure law, registered nurse, licensed practical nurse, public health
2 sanitarian, New York city public health sanitarian, sanitation enforce-
3 ment agent, New York city sanitation worker, a firefighter, including a
4 firefighter acting as a paramedic or emergency medical technician admin-
5 istering first aid in the course of performance of duty as such fire-
6 fighter, an emergency medical service paramedic or emergency medical
7 service technician, or medical or related personnel in a hospital emer-
8 gency department, a city marshal, a school crossing guard appointed
9 pursuant to section two hundred eight-a of the general municipal law, a
10 traffic enforcement officer, traffic enforcement agent, a highway worker
11 as defined in section one hundred eighteen-a of the vehicle and traffic
12 law, a motor vehicle inspector and motor carrier investigator as defined
13 in section one hundred eighteen-b of the vehicle and traffic law, or
14 employee of any entity governed by the public service law in the course
15 of performing an essential service, from performing a lawful duty, by
16 means including releasing or failing to control an animal under circum-
17 stances evincing the actor's intent that the animal obstruct the lawful
18 activity of such peace officer, police officer, prosecutor as defined in
19 subdivision thirty-one of section 1.20 of the criminal procedure law,
20 registered nurse, licensed practical nurse, public health sanitarian,
21 New York city public health sanitarian, sanitation enforcement agent,
22 New York city sanitation worker, firefighter, paramedic, technician,
23 city marshal, school crossing guard appointed pursuant to section two
24 hundred eight-a of the general municipal law, traffic enforcement offi-
25 cer, traffic enforcement agent, highway worker as defined by section one
26 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
27 tor and motor carrier investigator as defined in section one hundred
28 eighteen-b of the vehicle and traffic law, or employee of an entity
29 governed by the public service law, he or she causes physical injury to
30 such peace officer, police officer, prosecutor as defined in subdivision
31 thirty-one of section 1.20 of the criminal procedure law, registered
32 nurse, licensed practical nurse, public health sanitarian, New York city
33 public health sanitarian, sanitation enforcement agent, New York city
34 sanitation worker, firefighter, paramedic, technician or medical or
35 related personnel in a hospital emergency department, city marshal,
36 school crossing guard, traffic enforcement officer, traffic enforcement
37 agent, highway worker as defined by section eighteen-a of the vehicle
38 and traffic law, motor vehicle inspector and motor carrier investigator
39 as defined in section one hundred eighteen-b of the vehicle and traffic
40 law, or employee of an entity governed by the public service law; or

41 11. With intent to cause physical injury to a train operator, ticket
42 inspector, conductor, signalperson, bus operator, station agent, station
43 cleaner or terminal cleaner employed by any transit agency, authority or
44 company, public or private, whose operation is authorized by New York
45 state or any of its political subdivisions, a city marshal, a school
46 crossing guard appointed pursuant to section two hundred eight-a of the
47 general municipal law, a traffic enforcement officer, traffic enforce-
48 ment agent, a highway worker as defined in section one hundred eigh-
49 teen-a of the vehicle and traffic law, a motor vehicle inspector and
50 motor carrier investigator as defined in section one hundred eighteen-b
51 of the vehicle and traffic law, prosecutor as defined in subdivision
52 thirty-one of section 1.20 of the criminal procedure law, sanitation
53 enforcement agent, New York city sanitation worker, public health sani-
54 tarian, New York city public health sanitarian, registered nurse,
55 licensed practical nurse, emergency medical service paramedic, or emer-
56 gency medical service technician, he or she causes physical injury to

1 such train operator, ticket inspector, conductor, signalperson, bus
2 operator, station agent, station cleaner or terminal cleaner, city
3 marshal, school crossing guard appointed pursuant to section two hundred
4 eight-a of the general municipal law, traffic enforcement officer, traf-
5 fic enforcement agent, highway worker as defined in section one hundred
6 eighteen-a of the vehicle and traffic law, motor vehicle inspector and
7 motor carrier investigator as defined in section one hundred eighteen-b
8 of the vehicle and traffic law, prosecutor as defined in subdivision
9 thirty-one of section 1.20 of the criminal procedure law, registered
10 nurse, licensed practical nurse, public health sanitarian, New York city
11 public health sanitarian, sanitation enforcement agent, New York city
12 sanitation worker, emergency medical service paramedic, or emergency
13 medical service technician, while such employee is performing an
14 assigned duty on, or directly related to, the operation of a train or
15 bus, including the cleaning of a train or bus station or terminal, or
16 such city marshal, school crossing guard, traffic enforcement officer,
17 traffic enforcement agent, highway worker as defined by section one
18 hundred eighteen-a of the vehicle and traffic law, motor vehicle inspec-
19 tor and motor carrier investigator as defined in section one hundred
20 eighteen-b of the vehicle and traffic law, prosecutor as defined in
21 subdivision thirty-one of section 1.20 of the criminal procedure law,
22 registered nurse, licensed practical nurse, public health sanitarian,
23 New York city public health sanitarian, sanitation enforcement agent,
24 New York city sanitation worker, emergency medical service paramedic, or
25 emergency medical service technician is performing an assigned duty; or
26 § 2. The penal law is amended by adding a new section 120.19 to read
27 as follows:

28 § 120.19 Menacing a highway worker.

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

35 Menacing a highway worker is a class E felony.

36 § 3. The vehicle and traffic law is amended by adding two new sections
37 118-a and 118-b to read as follows:

38 § 118-a. Highway worker. Any person employed by or on behalf of the
39 state, a county, city, town or village, a public authority, a local
40 authority, or a public utility company, or the agent or contractor of
41 any such entity, who has been assigned to perform work on a highway,
42 including maintenance, repair, flagging, utility work, construction,
43 reconstruction or operation of equipment on public highway infrastruc-
44 ture and associated rights-of-way in highway work areas, and shall also
45 include any flagperson as defined in section one hundred fifteen-b of
46 this article.

47 § 118-b. Motor vehicle inspector and motor carrier investigator. Any
48 person employed by the New York state department of transportation who
49 has been assigned to perform inspections of any motor vehicles or inves-
50 tigation of any carriers regulated by the commissioner of the department
51 of transportation.

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

55 (xviii) for a period of six months where the holder is convicted of
56 the crime of assault in the first, second, or third degree, menacing a

1 highway worker, or menacing in the first, second, or third degree, as
2 defined by article one hundred twenty of the penal law, where such
3 offense was committed against a highway worker.

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

6 § 1221-a. Intrusion into an active work zone. 1. No driver of a vehi-
7 cle shall enter or intrude into an active work zone except upon direc-
8 tion from a flagperson, police officer, or other visibly designated
9 person in charge of traffic control or upon direction from a traffic
10 control device regulating entry therein. For purposes of this section,
11 the term "active work zone" shall mean the physical area of a highway,
12 street, or private road on which construction, maintenance, or utility
13 work is being conducted, which is marked by signs, channeling devices,
14 barriers, pavement markings, or work vehicles, and where workers are
15 physically present.

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

21 § 6. The vehicle and traffic law is amended by adding a new section
22 1221-b to read as follows:

23 § 1221-b. Work zone safety and outreach. The governor's traffic safety
24 committee, upon consultation with the commissioner of transportation,
25 the superintendent of state police, the commissioner, the chairman of
26 the New York state thruway authority, local law enforcement agencies,
27 and representatives for contractors and laborers, shall design and
28 implement a public education and outreach program to increase motorist
29 awareness of the importance of highway work zone safety, to reduce the
30 number of work zone incidents, including speeding, unauthorized intru-
31 sions into work zones, and any conduct resulting in threats or injuries
32 to highway workers, and to increase and promote work zone safety.

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

35 SUBPART B

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

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

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

46 2. The commissioner [~~of transportation~~], a police officer, or any
47 person acting at the discretion of the commissioner or a police officer
48 shall have the power to cause the immediate removal, from the right of
49 way of any state highway, of any vehicle, cargo, or debris which
50 obstructs or interferes with the use of such a highway for public trav-
51 el; or which obstructs or interferes with the construction, recon-
52 struction or maintenance of such a highway; or which obstructs or inter-
53 feres with the clearing or removal of snow or ice from such a highway;
54 or which obstructs or interferes with any operation of the department of

transportation during a public emergency. The commissioner, a police officer, or any person acting at the discretion of the commissioner or a police officer, shall not be liable for any damage to such vehicle, cargo, or debris, unless such removal was carried out in a reckless or grossly negligent manner. For the purposes of this subdivision, the term "police officer" shall have the same meaning as defined by subdivision thirty-four of section 1.20 of the criminal procedure law.

§ 3. This act shall take effect immediately.

SUBPART C

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

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

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

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

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

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

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

PART E

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

1 (v) Within a distance of approximately one mile from the New York
2 state thruway interchange 24 traveling along interstate route 90 to
3 interchange 2 Washington avenue, and to Washington avenue traveling
4 westbound to Fuller road in a northerly direction to interstate route 90
5 traveling to interchange 24 of the New York state thruway, where the
6 commissioner of transportation determines that the vehicle or combina-
7 tion of vehicles could operate safely along the designated route and
8 that no applicable federal law, regulation or other requirement prohib-
9 its the operation of such vehicle or combination of vehicles on such
10 route.

11 (w) Within a distance of approximately .25 miles from the New York
12 state thruway interchange 25A, traveling in a westbound direction along
13 interstate route 88 to exit 25 to route 7, and to a left on Becker road
14 traveling in a southbound direction on Becker road for approximately .2
15 miles to the New York state thruway interchange 25A tandem lot access
16 road, where the commissioner of transportation determines that the vehi-
17 cle or combination of vehicles could operate safely along the designated
18 route and that no applicable federal law, regulation or other require-
19 ment prohibits the operation of such vehicle or combination of vehicles
20 on such route.

21 (x) Within a distance of approximately 2.2 miles from the New York
22 state thruway interchange 34A traveling in a southbound direction along
23 interstate route 481 to interstate 481 exit 5E Kirkville road east along
24 state route 53 Kirkville road in an eastbound direction to interstate
25 route 481 traveling northbound to exit 6 to interchange 34A of the New
26 York state thruway, where the commissioner of transportation determines
27 that the vehicle or combination of vehicles could operate safely along
28 the designated route and that no applicable federal law, regulation or
29 other requirement prohibits the operation of such vehicle or combination
30 of vehicles on such route.

31 (y) Within a distance of approximately .8 miles from the New York
32 state thruway interchange 35, traveling approximately 200 feet around
33 Carrier circle to traveling northbound on Thompson road for approximate-
34 ly 1000 feet, or traveling southbound on Thompson road approximately 100
35 feet, to traveling westbound on Tarbell road for approximately .5 miles
36 to reenter at the Dewitt service area of the New York state thruway
37 where the commissioner of transportation determines that the vehicle or
38 combination of vehicles could operate safely along the designated route
39 and that no applicable federal law, regulation or other requirement
40 prohibits the operation of such vehicle or combination of vehicles on
41 such route.

42 (z) Within a distance of approximately one mile from the New York
43 state thruway interchange 36 traveling in a southbound direction on
44 interstate 81 to interstate 81 exit 25 7th North street, and traveling
45 eastbound on 7th North street to interstate 81 traveling in a northbound
46 direction to interchange 36 of the New York state thruway, where the
47 commissioner of transportation determines that the vehicle or combina-
48 tion of vehicles could operate safely along the designated route and
49 that no applicable federal law, regulation or other requirement prohib-
50 its the operation of such vehicle or combination of vehicles on such
51 route.

52 (aa) Within a distance of approximately .6 miles from the New York
53 state thruway interchange 39 traveling eastbound on interstate 690 to
54 interstate 690 exit 2 Jones road in a northbound direction to state
55 route 690 north to interchange 39 of the New York state thruway, where
56 the commissioner of transportation determines that the vehicle or combi-

1 nation of vehicles could operate safely along the designated route and
2 that no applicable federal law, regulation or other requirement prohib-
3 its the operation of such vehicle or combination of vehicles on such
4 route.

5 (bb) Within a distance of approximately .5 miles from the New York
6 state thruway interchange 45, traveling on interstate 490 to interstate
7 490 exit 29, in a southwesterly direction along New York state route 96
8 to the point where New York state route 96 intersects with the entrance
9 ramp to the New York state thruway interchange 45, and for approximately
10 .2 miles along this entrance ramp to the New York state thruway inter-
11 change 45, where the commissioner of transportation determines that the
12 vehicle or combination of vehicles could operate safely along the desig-
13 ated route and that no applicable federal law, regulation or other
14 requirement prohibits the operation of such vehicle or combination of
15 vehicles on such route.

16 (cc) Within a distance of approximately .6 miles from the New York
17 state thruway interchange 46, traveling in a northeasterly direction on
18 the ramp from the New York state thruway interchange 46 to interstate
19 390 north exit to New York state route 253, Lehigh Station road, for a
20 distance of approximately .5 miles along the ramp from interstate 390
21 north exit to New York state route 253, Lehigh Station road, for a
22 distance of approximately .6 miles in a westerly direction along New
23 York state route 253, Lehigh Station road, to the intersection of New
24 York state route 253 with New York state route 15, then for a distance
25 of approximately .6 miles in a southerly direction along New York state
26 route 15, to the New York state thruway interchange 46 maintenance
27 facility entrance, where the commissioner of transportation determines
28 that the vehicle or combination of vehicles could operate safely along
29 the designated route and that no applicable federal law, regulation or
30 other requirement prohibits the operation of such vehicle or combination
31 of vehicles on such route.

32 (dd) Within a distance of approximately .3 miles from the New York
33 state thruway interchange 47, traveling on interstate 490 to interstate
34 490 exit 1, to a distance of approximately .2 miles along the ramp from
35 interstate 490 exit 1, for a distance of approximately .4 miles in a
36 southwesterly direction to the entrance ramp of the New York state thru-
37 way interchange 47, where the commissioner of transportation determines
38 that the vehicle or combination of vehicles could operate safely along
39 the designated route and that no applicable federal law, regulation or
40 other requirement prohibits the operation of such vehicle or combination
41 of vehicles on such route.

42 (ee) Within a distance of approximately .6 miles from the New York
43 state thruway interchange 19, traveling in a westbound direction along
44 route 28 to route 209, and traveling in a southbound direction on route
45 209 for approximately .1 miles to route 28, and traveling in an east-
46 bound direction on route 28 for approximately .8 miles to the New York
47 state thruway interchange 19 where the commissioner of transportation
48 determines that the vehicle or combination of vehicles could operate
49 safely along the designated route and that no applicable federal law,
50 regulation or other requirement prohibits the operation of such vehicle
51 or combination of vehicles on such route.

52 (ff) Within a distance of approximately .5 miles from the New York
53 state thruway interchange 31, traveling onto the ramp to Genesee street
54 south for approximately 2800 feet to Genesee street north for approxi-
55 mately 275 feet to interchange 31 of the New York state thruway where
56 the commissioner of transportation determines that the vehicle or combi-

nation 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.

(gg) Within a distance of approximately .2 miles from the New York state thruway interchange 33 traveling westbound on state route 365 for approximately 900 feet to interchange 33 of the New York state thruway 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.

(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 provided that such disposals 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

1 river north of the village of Catskill and south of the city of Hudson;
2 (c) the Bear Mountain bridge, constructed by the Bear Mountain Hudson
3 River Bridge Company, pursuant to chapter three hundred fifty-eight of
4 the laws of nineteen hundred twenty-two; (d) the Hamilton Fish
5 Newburgh-Beacon bridge, including both spans of the bridge constructed
6 across the Hudson river between a location in the vicinity of the city
7 of Newburgh and a location in the vicinity of the city of Beacon; (e)
8 the Kingston-Rhinecliff bridge, constructed across the Hudson river
9 within five miles of the city of Kingston; and (f) the walkway over the
10 Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was
11 constructed across the Hudson river north of the Franklin Delano Roose-
12 velt Mid-Hudson bridge.

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

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

31 § 3. Section 356-a of the public authorities law is amended by adding
32 new subdivisions 6 and 7 to read as follows:

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

37 7. The bridge constructed by the Bear Mountain Hudson River Bridge
38 Company, pursuant to chapter three hundred and fifty-eight of the laws
39 of nineteen hundred twenty-two which is identified and known as the Bear
40 Mountain bridge shall be designated and known as the "Purple Heart
41 Veterans Memorial bridge".

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

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

1 Hudson bridge, the Poughkeepsie-Highland railroad bridge, which was
2 constructed across the Hudson river north of the Franklin Delano Roose-
3 velt Mid-Hudson bridge.

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

6 3. Upon abolishment of the New York state bridge authority, the state
7 of New York does pledge to and agree with the holders of any bonds or
8 notes of the authority that the state will not authorize the
9 construction or maintenance of any additional highway crossings for
10 vehicular traffic over, under or across the waters of the Hudson river
11 in addition to the bridges and crossings constituting the Cross-Hudson
12 bridge system authorized by this title which will be competitive with
13 the bridges and crossings constituting the Cross-Hudson bridge system,
14 nor will it limit or alter the rights hereby vested in the authority to
15 establish and collect such charges and tolls as may be convenient or
16 necessary to produce sufficient revenue to meet the expense of mainte-
17 nance and operation and to fulfill the terms of any agreement made with
18 the holders of the bonds or notes, or in any way impair the rights and
19 remedies of bondholders or noteholders, until the bonds and notes,
20 together with interest, and all costs and expenses in connection with
21 any actions or proceedings by or on behalf of the bondholders or note-
22 holders, are fully met and discharged. For the purposes of this subdivi-
23 sion, any such bridge or crossing shall be considered as competitive
24 only if it shall form a connection for vehicular traffic over, under or
25 across the Hudson river south of a line drawn across the Hudson river
26 fifteen miles north of the Rip Van Winkle bridge, and north of the Bear
27 Mountain bridge.

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

30 § 389. Additional powers of the authority to undertake and finance
31 certain projects in connection with the Cross-Hudson bridge system and
32 the New York state bridge authority. Simultaneous with the discharge,
33 defeasance, redemption or refunding of the bonds, notes and other obli-
34 gations of the New York state bridge authority and the discharge and
35 payment of any other obligations whatsoever of the New York state bridge
36 authority by the issuance of bonds or other obligations of the Authority
37 or otherwise, the authority is hereby authorized as an additional corpo-
38 rate purpose thereof, to assume jurisdiction for its corporate purposes
39 of the Cross-Hudson bridge system, with all rights and powers with
40 respect to such system as established in this title with respect to any
41 thruway section or connection, including, but not limited to, the power
42 to operate and maintain said system, to fix and collect such fees,
43 rentals and charges for the use thereof, to issue its bonds, notes and
44 other obligations in conformity with applicable provisions of the
45 uniform commercial code for purposes of the acquisition, design,
46 construction, reconstruction, repair, rehabilitation and improvement of
47 the Cross-Hudson bridge system.

48 § 7. The public authorities law is amended by adding a new section
49 355-a to read as follows:

50 § 355-a. New York state bridge authority. 1. The New York state bridge
51 authority created by former section five hundred twenty-seven of this
52 chapter shall be abolished upon the date upon which all covenants,
53 agreements and obligations to the holders of bonds, notes or other obli-
54 gations issued or incurred under any bond resolution of the New York
55 state bridge authority have been paid in full or otherwise fully met and
56 discharged, within the meaning of such bond resolution.

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

6 3. Upon abolishment of the New York state bridge authority, all rules,
7 regulations, acts, orders, determinations, and decisions of such author-
8 ity in force at the time of such transfer, assignment, assumption or
9 devolution, shall continue in force and effect as rules, regulations,
10 acts, orders, determinations and decisions of the New York state thruway
11 authority until duly modified or abrogated by the New York state thruway
12 authority.

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

17 5. Upon abolishment of the New York state bridge authority, all books,
18 papers, records and property of such authority shall be transferred as
19 assigned to the New York state thruway authority. All employees trans-
20 ferred from the New York state bridge authority to the New York state
21 thruway authority shall be transferred without further examination or
22 qualification and such employees shall retain their respective civil
23 service classifications, status and collective bargaining unit design-
24 ations and be governed by applicable collective bargaining agreements.

25 6. Upon abolishment of the New York state bridge authority, any busi-
26 ness or other matters undertaken or commenced by the New York state
27 bridge authority and pending on the date of abolishment may be conducted
28 and completed by the New York state thruway authority in the same manner
29 and under the same terms and conditions and with the same effect as if
30 conducted by the New York state bridge authority.

31 7. Upon abolishment of the New York state bridge authority, whenever
32 the New York state bridge authority, or the chairman or the executive
33 director or other officer, member or employee thereof, is referred to or
34 designated in any law, contract or document, such reference or design-
35 ation shall be deemed to refer to the New York state thruway authority.

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

38 9. No action pending at the time the New York state bridge authority
39 is abolished, brought by or against the New York state bridge authority,
40 or the chairman or executive director thereof, shall be affected by any
41 provision of this section, but the same may be prosecuted or defended in
42 the name of the New York state thruway authority or the executive direc-
43 tor or chairman thereof, and the proper party shall, upon application to
44 the court, be substituted as a party.

45 10. Upon abolishment of the New York state bridge authority act, the
46 rights and remedies of bondholders, other creditors or persons having
47 claims or contracts with the New York state bridge authority shall not
48 be limited, impaired or otherwise altered by the merger of the New York
49 state bridge authority facilities and operations into the New York state
50 thruway authority.

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

52 § 9. Notwithstanding any provision of this act or any other provisions
53 of law, general, special or local, the New York state bridge authority
54 shall from time to time, take any action necessary and proper to assist
55 the New York state thruway authority in effecting such discharge,
56 including, but not limited to directing the trustee under its agreement

1 with New York state bridge authority bondholders to apply available and
2 necessary funds to such discharge and otherwise take such actions
3 consistent with such agreement to effectuate such discharge, and trans-
4 fer and pay over to the New York state thruway authority all remaining
5 funds; and may accept and use any moneys transferred and paid over to it
6 by the New York state thruway authority to implement such discharge.

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

9 1. A board to be known as "New York state thruway authority" is hereby
10 created. Such board shall be a body corporate and politic constituting a
11 public corporation. It shall consist of ~~[seven]~~ eight members appointed
12 by the governor by and with the advice and consent of the senate. One
13 member shall be, at the time of appointment, a resident of one of the
14 following counties: Orange, Rockland, Westchester, Putnam, Dutchess,
15 Ulster, Greene or Columbia. The members first appointed shall serve for
16 terms ending three, six and nine years, respectively from January first
17 next succeeding their appointment. Provided, however, that two board
18 members first appointed on or after the effective date of the chapter of
19 the laws of two thousand five which amended this subdivision shall serve
20 an initial term of two years; provided further that two other board
21 members first appointed on or after the effective date of the chapter of
22 the laws of two thousand five which amended this subdivision shall serve
23 an initial term of three years. Their successors shall be appointed for
24 terms of nine years each. A member to be designated as chairman in his
25 or her appointment as a member shall be chairman of such board until his
26 or her term as member expires. The chairman and the other members shall
27 serve without salary or other compensation, but shall be entitled to
28 reimbursement for their actual and necessary expenses incurred in the
29 performance of their official duties.

30 § 11. Nothing contained in this act shall be deemed to limit or alter
31 in any way the rights and obligations of the New York state bridge
32 authority or after the abolishment of the New York state bridge authori-
33 ty, the New York state thruway authority, to establish and collect such
34 fees, rentals and other charges as may be necessary or required to
35 produce sufficient revenues to meet and to fulfill the terms and
36 provisions of the contracts made with the holders and registered owners
37 of the bonds, notes or other obligations or in any way impair the
38 constitutional rights of the holders and registered owners of the bonds,
39 notes or other obligations.

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

43 § 13. If any provision of any section of this act or the application
44 thereof to any person or circumstance shall be adjudged invalid by a
45 court of competent jurisdiction, such order or judgment shall be
46 confined in its operation to the controversy in which it was rendered,
47 and shall not affect or invalidate the remainder of any provision of any
48 section of this act or the application thereof to any other person or
49 circumstance and to this end the provisions of each section of this act
50 are hereby declared to be severable.

51 § 14. This act shall take effect immediately, provided, however, that
52 section eight of this act shall take effect when all covenants, agree-
53 ments and obligations to the holders of bonds, notes or other obli-
54 gations issued or incurred under any bond resolution of the New York
55 state bridge authority are fully discharged and satisfied; provided,
56 that the New York state thruway authority shall notify the legislative

1 bill drafting commission when all covenants, agreements and obligations
2 to the holders of bonds, notes or other obligations of the New York
3 state bridge authority are fully discharged and satisfied in order that
4 the commission may maintain an accurate and timely effective data base
5 of the official text of the laws of the state of New York in furtherance
6 of effectuating the provisions of section 44 of the legislative law and
7 section 70-b of the public officers law.

8

PART H

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

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

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

36 (b) Any person who knowingly solicits or attempts to solicit another
37 person for the unlicensed provision of any business, trade or commercial
38 transaction in violation of this section involving the rendering to
39 another person of ground transportation services from an airport shall
40 be guilty of a traffic infraction and, for the first violation, be
41 required to pay a mandatory civil penalty of three thousand dollars; and
42 for the second violation, be required to pay a mandatory civil penalty
43 of five thousand dollars; and for a third or subsequent violation, be
44 required to pay a mandatory civil penalty of ten thousand dollars.

45 6. The commissioner shall have the authority to deny a registration or
46 renewal application for a motor vehicle where a current or previously
47 registered owner of such motor vehicle has been found in violation of
48 this section, section 19-506 of the administrative code of the city of
49 New York, or other provision establishing civil or criminal liability
50 for unlicensed ground transportation service, or unlicensed operation,
51 and may also deny a registration or renewal application for any other
52 motor vehicle registered in the name of such owner, where the commis-
53 sioner determines that the applicant's intent in applying for registra-
54 tion or renewal has likely been to evade the purposes of this section

1 and where the commissioner has reasonable grounds to believe that such
2 registration or renewal will have the effect of tending to defeat the
3 purposes of this section.

4 7. (a) A special proceeding may be commenced in supreme court or coun-
5 ty court by a petitioner, whom shall be either the attorney general, or
6 by the agency, authority, bi-state authority, county, or city having
7 jurisdiction over the airport where the alleged violation occurred,
8 alleging that a motor vehicle owner has committed a second or subsequent
9 traffic infraction in violation of this section. A petitioner establish-
10 ing by clear and convincing evidence that a motor vehicle owner has
11 committed a second or subsequent violation of this section shall be
12 entitled to judgment of forfeiture of all right, title or interest held
13 by the owner in any motor vehicle used in the commission of the second
14 or subsequent violation.

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

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

41 (b) Upon a determination by a court that a motor vehicle is subject to
42 legal forfeiture, the court will issue an order that petitioner shall
43 retain the seized motor vehicle during the pendency of the legal forfei-
44 ture action and proceed in accordance with article four of the civil
45 practice law and rules to resolve any remaining issues prior to entering
46 judgment. If the seized motor vehicle is not subject to legal forfei-
47 ture, but a violation of this section is found, then the motor vehicle
48 shall be released to the owner upon the payment of all penalties and
49 suspension termination fees associated with such violation. If a charge
50 for violating this section is dismissed and the motor vehicle is not
51 otherwise subject to legal forfeiture, the motor vehicle shall be
52 released to the owner within twenty-four hours of such dismissal.

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

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

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

§ 3. Notwithstanding the provisions of any other law to the contrary, the port authority of New York and New Jersey (the "port authority") and its police officers may enforce any local law, rule or regulation related to ground transportation service as defined by section twelve hundred-twenty-b of the vehicle and traffic law at airports leased by the port authority within the city of New York ("city") to the same extent as the City or any of its subdivisions.

§ 4. The commissioner of motor vehicles shall be authorized to establish rules or regulations and take all other actions deemed reasonably necessary to effectuate this act.

§ 5. Paragraph 4 of section 1220-b of the vehicle and traffic law is amended to read as follows:

4. Any person who engages in the unlawful solicitation of ground transportation services at an airport shall be guilty of a class B misdemeanor punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars, or by imprisonment of not more than ninety days or by both such fine and imprisonment. Notwithstanding any contrary provision of law, any ~~[charge]~~ accusatory instrument alleging a violation of this section as a class B misdemeanor shall be ~~[returnable before]~~ filed in a court having jurisdiction over ~~[misdemeanors]~~ criminal actions.

§ 6. This act shall take effect ninety days from the date of enactment.

PART I

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

12. The aggregate principal amount of bonds, notes or other obligations issued after the first day of January, nineteen hundred ninety-three by the authority, the Triborough bridge and tunnel authority and the New York city transit authority to fund projects contained in capital program plans approved pursuant to section twelve hundred sixty-nine-b of this title for the period nineteen hundred ninety-two through two thousand ~~[nineteen]~~ twenty-four shall not exceed ~~[fifty-five]~~ ninety billion ~~[four]~~ one hundred ~~[ninety-seven]~~ million dollars. Such aggregate principal amount of bonds, notes or other obligations or the expenditure thereof shall not be subject to any limitation contained in any other provision of law on the principal amount of bonds, notes or other obligations or the expenditure thereof applicable to the authority, the Triborough bridge and tunnel authority or the New York city transit authority. The aggregate limitation established by this subdivision shall not include (i) obligations issued to refund, redeem or otherwise repay, including by purchase or tender, obligations theretofore issued either by the issuer of such refunding obligations or by the

1 authority, the New York city transit authority or the Triborough bridge
2 and tunnel authority, (ii) obligations issued to fund any debt service
3 or other reserve funds for such obligations, (iii) obligations issued or
4 incurred to fund the costs of issuance, the payment of amounts required
5 under bond and note facilities, federal or other governmental loans,
6 security or credit arrangements or other agreements related thereto and
7 the payment of other financing, original issue premiums and related
8 costs associated with such obligations, (iv) an amount equal to any
9 original issue discount from the principal amount of such obligations or
10 to fund capitalized interest, (v) obligations incurred pursuant to
11 section twelve hundred seven-m of this article, (vi) obligations
12 incurred to fund the acquisition of certain buses for the New York city
13 transit authority as identified in a capital program plan approved
14 pursuant to chapter fifty-three of the laws of nineteen hundred ninety-
15 two, (vii) obligations incurred in connection with the leasing, selling
16 or transferring of equipment, and (viii) bond anticipation notes or
17 other obligations payable solely from the proceeds of other bonds, notes
18 or other obligations which would be included in the aggregate principal
19 amount specified in the first sentence of this subdivision, whether or
20 not additionally secured by revenues of the authority, or any of its
21 subsidiary corporations, New York city transit authority, or any of its
22 subsidiary corporations, or Triborough bridge and tunnel authority.

23 § 2. This act shall take effect immediately.

24 PART J

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

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

31 (a) Except as otherwise provided in this section, all purchase
32 contracts for supplies, materials or equipment involving an estimated
33 expenditure in excess of one million dollars and all contracts for
34 public work involving an estimated expenditure in excess of one million
35 dollars shall be awarded by the authority to the lowest responsible
36 bidder after obtaining sealed bids in the manner hereinafter set forth.
37 The aforesaid shall not apply to contracts for personal, architectural,
38 engineering or other professional services, nor to contracts for
39 projects using the design build contracting method which may in the
40 authority's discretion be solicited and awarded pursuant to a process
41 for competitive request for proposals. The authority may reject all bids
42 and obtain new bids in the manner provided by this section when it is
43 deemed in the public interest to do so or, in cases where two or more
44 responsible bidders submit identical bids which are the lowest bids,
45 award the contract to any of such bidders or obtain new bids from such
46 bidders. In the event that the authority receives no responsive bids or
47 only a single bid in response to an invitation for bids, it may negoti-
48 ate with any firm capable of providing the goods or work that was the
49 subject of the bid. In the event that, after opening bids, it is deter-
50 mined to be in the best interest of the authority to make a change to
51 the specifications or other terms or requirements of the bid, new bids
52 may be solicited from those firms that submitted bids without additional
53 public advertisements. In the event that a low bid contains a non-con-
54 formity or is otherwise non-compliant with the solicitation, the author-

1 ity may permit such bid to be corrected without increase to the low bid
2 price or may reject such bid. Nothing in this paragraph shall obligate
3 the authority to seek new bids after the rejection of bids or after
4 cancellation of an invitation to bid. Nothing in this section shall
5 prohibit the evaluation of bids on the basis of costs or savings includ-
6 ing life cycle costs of the item to be purchased, discounts, and
7 inspection services so long as the invitation to bid reasonably sets
8 forth the criteria to be used in evaluating such costs or savings. Life
9 cycle costs may include but shall not be limited to costs or savings
10 associated with installation, energy use, maintenance, operation and
11 salvage or disposal.

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

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

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

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

1 (c) [~~the authority receives no responsive bids or only a single~~
2 ~~responsive bid in response to an invitation for competitive bids;~~

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

6 ~~(e)~~ (d) the item is available through an existing contract between a
7 vendor and (i) any department, office, agency, or instrumentality of the
8 United States government or department, agency, office, political subdi-
9 vision, or instrumentality of any state within the United States or (ii)

10 another public authority provided that such other authority utilized a
11 process of competitive bidding or a process of competitive requests for
12 proposals to award such contract or ~~(ii)~~ (iii) the state of New York
13 or the city of New York, provided that in any case when the authority
14 under this paragraph determines that obtaining such item thereby would
15 be in the public interest and sets forth the reasons for such determi-
16 nation. The authority shall accept sole responsibility for any payment
17 due the vendor as a result of the authority's order; or

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

20 10. Upon the adoption of a resolution by the authority stating, for
21 reasons of efficiency, economy, compatibility or maintenance reliabil-
22 ity, that there is a need for standardization, the authority may estab-
23 lish procedures whereby particular supplies, materials or equipment are
24 identified on a qualified products list. Such procedures shall provide
25 for products or vendors to be added to or deleted from such list and
26 shall include provisions for public advertisement of the manner in which
27 such lists are compiled. The authority shall review such list no less
28 than ~~twice~~ once a year for the purpose of making modifications there-
29 to. Contracts for particular supplies, materials or equipment identi-
30 fied on a qualified products list may be awarded by the authority to the
31 lowest responsible bidder after obtaining sealed bids in accordance with
32 this section or without competitive sealed bids in instances when the
33 item is available from only a single source, except that the authority
34 may dispense with advertising provided that it mails copies of the invi-
35 tation to bid to all vendors of the particular item on the qualified
36 products list.

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

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

42 (a) Except as otherwise provided in this section, all purchase
43 contracts for supplies, materials or equipment involving an estimated
44 expenditure in excess of one million dollars and all contracts for
45 public work involving an estimated expenditure in excess of one million
46 dollars shall be awarded by the authority to the lowest responsible
47 bidder after obtaining sealed bids in the manner hereinafter set forth.
48 For purposes hereof, contracts for public work shall exclude contracts
49 for personal, engineering and architectural, or professional services,
50 and contracts for projects using the design build contracting method
51 which may, in the authority's discretion, be solicited and awarded
52 pursuant to a process for competitive request for proposals. The
53 authority may reject all bids and obtain new bids in the manner provided
54 by this section when it is deemed in the public interest to do so or, in
55 cases where two or more responsible bidders submit identical bids which
56 are the lowest bids, award the contract to any of such bidders or obtain

1 new bids from such bidders. In the event that the authority receives no
2 responsive bids or only a single bid in response to an invitation for
3 bids, it may negotiate with any firm capable of providing the goods or
4 work that was the subject of the bid. In the event that, after opening
5 bids, it is determined to be in the best interest of the authority to
6 make a change to the specifications or other terms or requirements of
7 the bid, new bids may be solicited from those firms that submitted bids
8 without additional public advertisements. In the event that a low bid
9 contains a non-conformity or is otherwise non-compliant with the solici-
10 itation, the authority may permit such bid to be corrected without
11 increase to the low bid price or may reject such bid. Nothing in this
12 paragraph shall obligate the authority to seek new bids after the
13 rejection of bids or after cancellation of an invitation to bid. Noth-
14 ing in this section shall prohibit the evaluation of bids on the basis
15 of costs or savings including life cycle costs of the item to be
16 purchased, discounts, and inspection services so long as the invitation
17 to bid reasonably sets forth the criteria to be used in evaluating such
18 costs or savings. Life cycle costs may include but shall not be limited
19 to costs or savings associated with installation, energy use, mainte-
20 nance, operation and salvage or disposal.

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

23 (d) To assist the authority in the development, testing and adoption
24 of new and innovative technology, the authority may award contracts for
25 goods or services not to exceed five million dollars to qualified emerg-
26 ing technology companies as defined in section thirty-one hundred two-e
27 of this chapter pursuant to a process established by the board. In
28 screening and selecting emerging technology firms for such awards, the
29 authority may cooperate with the New York city partnership foundation or
30 other such nonprofit organizations.

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

34 (a) Advertisement for bids, when required by this section, shall be
35 published [~~at least once in a newspaper of general circulation in the~~
36 ~~area served by the authority and in the procurement opportunities news-~~
37 ~~letter published pursuant to article four C of the economic development~~
38 ~~law provided that,~~] on the authority's website notwithstanding the
39 provisions of article four-C of the economic development law[, ~~an adver-~~
40 ~~tisement shall only be required for a purchase contract for supplies,~~
41 ~~materials or equipment when required by this section. Publication in a~~
42 ~~newspaper of general circulation in the area served or in the procure-~~
43 ~~ment opportunities newsletter shall not be required if bids for~~
44 ~~contracts for supplies, materials or equipment are of a type regularly~~
45 ~~purchased by the authority and are to be solicited from a list of poten-~~
46 ~~tial suppliers, if such list is or has been developed consistent with~~
47 ~~the provisions of subdivision six of this section~~]. Any such advertise-
48 ment shall contain a statement of: (i) the time and place where bids
49 received pursuant to any notice requesting sealed bids will be publicly
50 opened and read; (ii) the name of the contracting agency; (iii) the
51 contract identification number; (iv) a brief description of the public
52 work, supplies, materials, or equipment sought, the location where work
53 is to be performed, goods are to be delivered or services provided and
54 the contract term; (v) the address where bids or proposals are to be
55 submitted; (vi) the date when bids or proposals are due; (vii) a
56 description of any eligibility or qualification requirement or prefer-

1 ence; (viii) a statement as to whether the contract requirements may be
2 fulfilled by a subcontracting, joint venture, or co-production arrange-
3 ment; (ix) any other information deemed useful to potential contractors;
4 and (x) the name, address, and telephone number of the person to be
5 contacted for additional information. At least [~~fifteen business~~] five
6 days shall elapse between the first publication of such advertisement or
7 the solicitation of bids, as the case may be, and the date of opening
8 and reading of bids.

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

13 (c) [~~the authority receives no responsive bids or only a single~~
14 ~~responsive bid in response to an invitation for competitive bids;~~

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

18 [~~(e)~~] (d) the item is available through an existing contract between a
19 vendor and (i) any department, office, agency, or instrumentality of the
20 United States government or department, agency, office, political subdi-
21 vision, or instrumentality of any state within the United States or (ii)

22 another public authority provided that such other authority utilized a
23 process of competitive bidding or a process of competitive requests for
24 proposals to award such contracts or [~~(ii)~~] (iii) Nassau county, or
25 [~~(iii)~~] (iv) the state of New York or [~~(iv)~~] (v) the city of New York,
26 provided that in any case when under this paragraph the authority deter-
27 mines that obtaining such item thereby would be in the public interest
28 and sets forth the reasons for such determination. The authority shall
29 accept sole responsibility for any payment due the vendor as a result of
30 the authority's order; or

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

34 5. Upon the adoption of a resolution by the authority stating, for
35 reasons of efficiency, economy, compatibility or maintenance reliabil-
36 ity, that there is a need for standardization, the authority may estab-
37 lish procedures whereby particular supplies, materials or equipment are
38 identified on a qualified products list. Such procedures shall provide
39 for products or vendors to be added to or deleted from such list and
40 shall include provisions for public advertisement of the manner in which
41 such lists are compiled. The authority shall review such list no less
42 than [~~twice~~] once a year for the purpose of making such modifications.
43 Contracts for particular supplies, materials or equipment identified on
44 a qualified products list may be awarded by the authority to the lowest
45 responsible bidder after obtaining sealed bids in accordance with this
46 section or without competitive sealed bids in instances when the item is
47 available from only a single source, except that the authority may
48 dispense with advertising provided that it mails copies of the invita-
49 tion to bid to all vendors of the particular item on the qualified
50 products list.

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

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

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

PART K

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

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

§ 2. This act shall take effect immediately.

PART L

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

19. Notwithstanding any law to the contrary, the Long Island Rail Road Company and the Metro-North Commuter Railroad Company or their contractors 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 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 a 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, 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, 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, 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 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 a train or bus station or terminal; or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, 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

1 medical service technician, while such employee is performing an
2 assigned duty on, or directly related to, the operation of a train or
3 bus, [~~including the~~] cleaning of a train or bus station or terminal or
4 maintenance of a train or bus station or terminal, signal system,
5 elevated or underground subway tracks, transit station structure, train
6 yard or revenue train in passenger service, or such city marshal, school
7 crossing guard, traffic enforcement officer, traffic enforcement agent,
8 prosecutor as defined in subdivision thirty-one of section 1.20 of the
9 criminal procedure law, registered nurse, licensed practical nurse,
10 public health sanitarian, New York city public health sanitarian, sani-
11 tation enforcement agent, New York city sanitation worker, emergency
12 medical service paramedic, or emergency medical service technician is
13 performing an assigned duty; or

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

16 PART O

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

19 3-a. He or she strikes, shoves, kicks, or otherwise subjects another
20 person to physical contact, which includes spitting on such other
21 person, and such other person is an on-duty train operator; ticket
22 inspector; conductor; signalperson; bus operator; station agent; station
23 cleaner; terminal cleaner; station customer assistant; person whose
24 official duties include the sale or collection of tickets, passes,
25 vouchers or other fare payment media for use on a train or bus; person
26 whose official duties include the maintenance, repair, inspection, trou-
27 bleshooting, testing or cleaning of a transit signal system, elevated or
28 underground subway tracks, transit station structure, train yard, reven-
29 ue train in passenger service, or train or bus station or terminal; or a
30 supervisor of such personnel, employed by any transit agency, authority
31 or company, public or private, whose operation is authorized by New York
32 state or any of its political subdivisions.

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

35 PART P

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

38 TITLE Y-3
39 TRANSIT CRIMES

40 ARTICLE 498
41 TRANSIT CRIMES

42 Section 498.05 Order of protection of public transit riders.

43 498.10 Transit trespass.

44 § 498.05 Order of protection of public transit riders.

45 1. When any criminal action is pending against a defendant charged
46 with a crime involving unlawful sexual conduct committed against any
47 metropolitan transportation authority passenger, customer, or employee
48 or an assault-related crime or offense against a metropolitan transpor-
49 tation authority employee committed in or on any of the subways, trains,
50 buses, or other conveyances or facilities of the metropolitan transpor-
51 tation authority or its subsidiaries or of the New York city transit

1 authority or its subsidiaries, the court, in addition to the other
2 powers conferred upon it by this chapter, may as a condition of a pre-
3 trial release, or as a condition of release on bail or an adjournment in
4 contemplation of dismissal, issue a temporary order of protection of
5 public transit riders to ensure the public safety. Such an order may
6 require that the defendant refrain from entering, remaining in or using
7 the facilities or conveyances of the metropolitan transportation author-
8 ity or its subsidiaries and the New York city transit authority and its
9 subsidiaries. A temporary order of protection of public transit riders
10 shall remain in effect until the final disposition of the case unless
11 revoked by the court.

12 2. Upon sentencing on a conviction for a crime involving unlawful
13 sexual conduct committed against any metropolitan transportation author-
14 ity passenger, customer, or employee or an assault-related crime or
15 offense against a metropolitan transportation authority employee commit-
16 ted in or on any facility or conveyance of the metropolitan transporta-
17 tion authority or its subsidiaries or of the New York city transit
18 authority or its subsidiaries, the court may, in addition to any other
19 disposition, enter an order of protection of public transit riders. The
20 duration of such an order shall be three years.

21 3. In any proceeding in which an order of protection of public transit
22 riders or temporary order of protection of public transit riders has
23 been issued under this section, the clerk of the court shall issue to
24 the defendant and defense counsel and the metropolitan transportation
25 authority, a copy of the order of protection of public transit riders or
26 temporary order of protection of public transit riders.

27 § 498.10 Transit trespass.

28 A person is guilty of transit trespass when, being a person subject to
29 a prohibition order issued by the metropolitan transportation authority
30 pursuant to section twelve hundred sixty-four-b of the public authori-
31 ties law or an order of protection of public transit riders or temporary
32 order of protection of public transit riders issued by a court, he or
33 she knowingly enters or remains in or uses any facility or conveyance of
34 the metropolitan transportation authority or its subsidiaries or of the
35 New York city transit authority or its subsidiaries.

36 Transit trespass is a class A misdemeanor.

37 § 2. The public authorities law is amended by adding a new section
38 1264-b to read as follows:

39 § 1264-b. Prohibition orders. 1. The authority may issue a prohibition
40 order to any person if it determines that:

41 (a) the person: (i) has been issued a summons, an appearance ticket,
42 or a notice of violation for committing a violation of any of the rules
43 and regulations governing the conduct and safety of the public estab-
44 lished by the New York city transit authority, the Manhattan and Bronx
45 surface transit operating authority, the Staten Island rapid transit
46 operating authority, MTA bus company, the Metro-North commuter railroad
47 company, or the Long Island Rail Road company; and (ii) the violation
48 was related to a sexual offense committed against any metropolitan
49 transportation authority passenger, customer, or employee or an
50 assault-related crime or offense against a metropolitan transportation
51 authority employee; and (iii) the person was previously issued two or
52 more summonses, appearance tickets, or notices of violation for commit-
53 ting a violation of any of the rules and regulations governing the
54 conduct and safety of the public established by the New York city trans-
55 it authority, the Manhattan and Bronx surface transit operating authori-
56 ty, the Staten Island rapid transit operating authority, the MTA bus

1 company, the Metro-North commuter railroad company, or the Long Island
2 Rail Road company for a violation related to a sexual offense committed
3 against any metropolitan transportation authority passenger, customer,
4 or employee or an assault-related crime or offense against a metropol-
5 itan transportation authority employee; or

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

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

12 3. No prohibition order shall be effective unless the authority first
13 affords the person notice and an opportunity to contest the authority's
14 proposed action in accordance with procedures adopted by the authority
15 for this purpose. The authority's procedures shall provide, at a mini-
16 mum, for the notice and other protections set forth in this section, and
17 the authority shall provide reasonable notification to the public of the
18 availability of such procedures.

19 4. (a) A notice of a proposed prohibition order shall set forth a
20 description of the listed crimes or conduct giving rise to the prohibi-
21 tion order, including reference to the applicable statutory provision or
22 ordinance violated, the dates of the listed conduct, the locations where
23 such conduct was committed and the scope of the prohibition. The notice
24 shall include a clear and conspicuous statement indicating the procedure
25 for contesting the proposed prohibition order. The notice shall be
26 served upon the person who is the subject of the proposed prohibition
27 order in the manner set forth in paragraph (b) of this subdivision. The
28 notice of prohibition order, or a copy thereof, shall be considered a
29 record kept in the ordinary course of business of the authority and
30 shall be prima facie evidence of the facts contained in the notice
31 establishing a rebuttable presumption affecting the burden of producing
32 evidence. For purposes of this paragraph, "clear and conspicuous" means
33 in larger type than the surrounding text, or in contrasting type, font,
34 or color to the surrounding text of the same size or set off from the
35 surrounding text of the same size by symbols or other marks that call
36 attention to the language.

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

38 (1) in-person delivery; or

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

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

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

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

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

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

50 (e) If a person contests a notice of prohibition order, the authority
51 shall proceed in accordance with subdivision six of this section. If the
52 notice of prohibition order is not contested within ten calendar days
53 following service of the notice, the prohibition order shall be deemed
54 final and shall be effective, without further action by the authority
55 for three years.

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

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

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

8 (3) the date the hearing officer's decision is served on the person if
9 an administrative hearing is timely requested and the hearing officer
10 upheld the order.

11 5. (a) For a period of ten days from the service of the proposed
12 prohibition order, the person may request an initial review of the
13 prohibition order by the authority. The request may be made by tele-
14 phone, in writing, or in person. There shall be no charge for this
15 review. In conducting its review and reaching a determination, the
16 authority shall determine whether the prohibition order meets the
17 requirements of subdivision one of this section. If, following the
18 initial review, based on these findings, the authority determines that
19 the proposed prohibition order is not adequately supported or that
20 extenuating circumstances make dismissal of the prohibition order appro-
21 priate in the interest of justice, the authority shall cancel the
22 notice. If, following the initial review, based on these findings, the
23 authority determines that the prohibition order should be upheld in
24 whole or in part, the authority shall issue a written statement to that
25 effect, including any modification to the period or scope of the prohi-
26 bition order. The authority shall serve the results of the initial
27 review to the person contesting the notice as set forth in subdivision
28 four of this section.

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

40 (c) If the person is dissatisfied with the results of the initial
41 review, the person may request an administrative hearing of the prohibi-
42 tion order no later than ten days after the results of the initial
43 review are serviced. The request may be made by telephone, in writing,
44 or in person. An administrative hearing shall be held within thirty days
45 after the receipt of a request for an administrative hearing. The person
46 requesting the hearing may request one continuance, not to exceed seven
47 calendar days.

48 6. The administrative hearing process shall include all of the follow-
49 ing:

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

54 (b) The administrative hearing shall be conducted in accordance with
55 written procedures established by the authority. The hearing shall

1 provide an independent, objective, fair, and impartial review of the
2 prohibition order.

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

8 (d) In issuing a decision, the hearing officer shall determine whether
9 the prohibition order meets the requirements of subdivision one of this
10 section. Based upon these findings, the hearing officer may uphold the
11 prohibition order in whole, determine that the prohibition order is not
12 adequately supported by a preponderance of the evidence, or cancel or
13 modify the prohibition order in the interest of justice. If the person
14 depends upon the authority's subways, trains, buses, or other conveyanc-
15 es or facilities for trips of necessity, including, but not limited to,
16 travel to or from medical or legal appointments, school or training
17 classes, or places of employment; obtaining food, clothing, and neces-
18 sary household items; or rendering care to family members, the hearing
19 officer may in their discretion modify a prohibition order to allow for
20 such trips. A person requesting a cancellation or modification in the
21 interest of justice shall have the burden of establishing the qualifying
22 circumstances by a preponderance of the evidence.

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

25 (f) A person aggrieved by the final decision of the hearing officer
26 may seek judicial review of the decision within ninety days of service
27 of the decision pursuant to article seventy-eight of the civil practice
28 law and rules.

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

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

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

42 PART Q

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

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

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

(a) In addition to such designation of the secretary of state, every domestic corporation or authorized foreign corporation may designate a registered agent in this state upon whom process against such corporation may be served. The agent shall be a natural person who is a resident of or has a business address in this state ~~[or]~~, a domestic corporation or foreign corporation of any type or kind formed, or authorized to do business in this state~~[7]~~ under this chapter or under any other statute of this state, or a domestic limited liability company or foreign limited liability company formed or authorized to do business in this state.

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

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

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

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

(3) That at least sixty days prior to the filing of the certificate of resignation for receipt of process with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designating corporation, if other than the party filing the certificate of resignation⁷ for receipt of process, or if the ~~[resigning]~~ designating corporation has no registered agent, then to the last address of the designating corporation known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating corporation, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the corporation, specifying what efforts were made.

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

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

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

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

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

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

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

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

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

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

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

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

15 (8) If the surviving or resulting entity is a foreign corporation or
16 other business entity, a designation of the secretary of state as its
17 agent upon whom process against it may be served in the manner set forth
18 in paragraph (b) of section three hundred six of this chapter, in any
19 action or special proceeding, and a post office address, within or with-
20 out this state, to which [~~the secretary of state~~] a person shall mail a
21 copy of any process against it served upon [~~him~~] the secretary of state.
22 Such post office address shall supersede any prior address designated as
23 the address to which process shall be mailed;

24 § 11. Clause (G) of subparagraph 2 of paragraph (e) of section 907 of
25 the business corporation law, as amended by chapter 494 of the laws of
26 1997, is amended to read as follows:

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

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

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

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

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

51 § 14. Subparagraph 2 of paragraph (a) and paragraph (c) of section
52 1309-A of the business corporation law, subparagraph 2 of paragraph (a)
53 as added by chapter 725 of the laws of 1964 and paragraph (c) as amended
54 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

1 shall have the same effect as the filing of a certificate of surrender
2 of authority under section 1310 (Surrender of authority). The secretary
3 of state shall continue as agent of the foreign corporation upon whom
4 process against it may be served in the manner set forth in paragraph
5 (b) of section 306 (Service of process), in any action or special
6 proceeding based upon any liability or obligation incurred by the
7 foreign corporation within this state prior to the filing of such
8 certificate, order or decree and ~~[he]~~ the person serving such process
9 shall ~~[promptly cause a copy of any such]~~ send the process ~~[to be~~
10 ~~mailed]~~ by ~~[registered]~~ certified mail, return receipt requested, to
11 such foreign corporation at the post office address on file in ~~[his]~~ the
12 office of the secretary of state specified for such purpose and shall
13 provide the secretary of state with proof of such mailing in the manner
14 set forth in paragraph (b) of section 306 (Service of process). The
15 post office address may be changed by signing and delivering to the
16 department of state a certificate of change setting forth the statements
17 required under section 1309-A (Certificate of change; contents) to
18 effect a change in the post office address under subparagraph seven of
19 paragraph (a) [(4)] of section 1308 (Amendments or changes).

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

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

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

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

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

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

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

49 Every association doing business within this state shall file in the
50 department of state a certificate in its associate name, signed ~~[and~~
51 ~~acknowledged]~~ by its president, or a vice-president, or secretary, or
52 treasurer, or managing director, or trustee, designating the secretary
53 of state as an agent upon whom process in any action or proceeding
54 against the association may be served within this state, and setting
55 forth an address to which ~~[the secretary of state]~~ a person shall mail a
56 copy of any process against the association which may be served upon

1 ~~[him]~~ the secretary of state pursuant to law. Annexed to the certifi-
2 cate of designation shall be a statement, executed in the same manner
3 as the certificate is required to be executed under this section, which
4 shall set forth:

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

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

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

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

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

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

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

55 2. Service of such process upon the secretary of state shall be made
56 by personally delivering to and leaving with ~~[him or]~~ the secretary of

1 state, a deputy secretary of state, or with a person authorized by the
2 secretary of state to receive such service, a copy thereof at the office
3 of the department of state in the city of Albany, and such service shall
4 be sufficient service provided that notice of such service and a copy of
5 such process are forthwith sent by the attorney general to such person,
6 partnership, corporation, company, trust or association, by registered
7 or certified mail with return receipt requested, at ~~[his or its]~~ the
8 office as set forth in the "broker-dealer's statement", "salesman's
9 statement" or "investment advisor's statement" filed in the department
10 of law pursuant to section three hundred fifty-nine-e or section three
11 hundred fifty-nine-eee of this article, or in default of the filing of
12 such statement, at the last address known to the attorney general.
13 Service of such process shall be complete on receipt by the attorney
14 general of a return receipt purporting to be signed by the addressee or
15 a person qualified to receive ~~[his or its]~~ registered or certified mail,
16 in accordance with the rules and customs of the post office department,
17 or, if acceptance was refused by the addressee or ~~[his or its]~~ their
18 agent, on return to the attorney general of the original envelope bear-
19 ing a notation by the postal authorities that receipt thereof was
20 refused.

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

23 § 686. Designation of secretary of state as agent for service of proc-
24 ess; service of process. Any person who shall offer to sell or sell a
25 franchise in this state as a franchisor, subfranchisor or franchise
26 sales agent shall be deemed to have irrevocably appointed the secretary
27 of state as his or ~~[its]~~ her agent upon whom may be served any summons,
28 complaint, subpoena, subpoena duces tecum, notice, order or other proc-
29 ess directed to such person, or any partner, principal, officer, sales-
30 man or director thereof, or his or ~~[its]~~ her successor, administrator or
31 executor, in any action, investigation, or proceeding which arises under
32 this article or a rule hereunder, with the same force and validity as if
33 served personally on such person. Service of such process upon the
34 secretary of state shall be made by personally delivering to and leaving
35 with ~~[him or]~~ the secretary of state, a deputy secretary of state, or
36 with any person authorized by the secretary of state to receive such
37 service, a copy thereof at the office of the department of state, and
38 such service shall be sufficient provided that notice of such service
39 and a copy of such process are sent forthwith by the department to such
40 person, by registered or certified mail with return receipt requested,
41 at ~~[his]~~ the address ~~[as]~~ set forth in the application for registration
42 of his or her offering prospectus or in the registered offering prospec-
43 tus itself filed with the department of law pursuant to this article, or
44 in default of the filing of such application or prospectus, at the last
45 address known to the department. Service of such process shall be
46 complete upon receipt by the department of a return receipt purporting
47 to be signed by the addressee or a person qualified to receive ~~[his or~~
48 ~~its]~~ registered or certified mail, in accordance with the rules and
49 customs of the post office department, or, if acceptance was refused or
50 unclaimed by the addressee or his or ~~[its]~~ her agent, or if the address-
51 ee moved without leaving a forwarding address, upon return to the
52 department of the original envelope bearing a notation by the postal
53 authorities that receipt thereof was refused or that such mail was
54 otherwise undeliverable.

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

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

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

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

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

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

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

27 § 211-A. Certificate of change. (a) A limited liability company may
28 amend its articles of organization from time to time to (i) specify or
29 change the location of the limited liability company's office; (ii)
30 specify or change the post office address to which [~~the secretary of~~
31 ~~state~~] a person shall mail a copy of any process against the limited
32 liability company served upon [~~him~~] the secretary of state; and (iii)
33 make, revoke or change the designation of a registered agent, or specify
34 or change the address of the registered agent. Any one or more such
35 changes may be accomplished by filing a certificate of change which
36 shall be entitled "Certificate of Change of (name of limited
37 liability company) under section 211-A of the Limited Liability Company
38 Law" and shall be signed and delivered to the department of state. It
39 shall set forth:

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

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

44 (3) each change effected thereby.

45 (b) A certificate of change which changes only the post office address
46 to which [~~the secretary of state~~] a person shall mail a copy of any
47 process against a limited liability company served upon [~~him or~~] the
48 secretary of state and/or the address of the registered agent, provided
49 such address being changed is the address of a person, partnership,
50 limited liability company or corporation whose address, as agent, is the
51 address to be changed or who has been designated as registered agent for
52 such limited liability company may be signed and delivered to the
53 department of state by such agent. The certificate of change shall set
54 forth the statements required under subdivision (a) of this section;
55 that a notice of the proposed change was mailed to the domestic limited
56 liability company by the party signing the certificate not less than

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

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

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

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

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

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

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

1 that time, the limited liability company shall continue to provide annu-
2 ally the statement specified in paragraph one of this subdivision on its
3 filing fee payment form in lieu of the biennial statement required by
4 this subdivision.

5 (3) If the agreement described in paragraph two of this subdivision is
6 made, the department of taxation and finance shall deliver to the
7 department of state the statement specified in paragraph one of this
8 subdivision contained on filing fee payment forms. The department of
9 taxation and finance must, to the extent feasible, also include the
10 current name of the limited liability company, department of state iden-
11 tification number for such limited liability company, the name, signa-
12 ture and capacity of the signer of the statement, name and street
13 address of the filer of the statement, and the email address, if any, of
14 the filer of the statement.

15 § 31. Paragraphs 2 and 3 of subdivision (a), subparagraph (ii) of
16 paragraph 2 and subparagraph (ii) of paragraph 3 of subdivision (e) of
17 section 301-A of the limited liability company law, as added by chapter
18 448 of the laws of 1998, are amended to read as follows:

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

24 (3) that at least sixty days prior to the filing of the certificate
25 of resignation for receipt of process with the department of state the
26 party has sent a copy of the certificate of resignation for receipt of
27 process by registered or certified mail to the address of the registered
28 agent of the designated limited liability company, if other than the
29 party filing the certificate of resignation[.] for receipt of process,
30 or if the [~~resigning~~] designating limited liability company has no
31 registered agent, then to the last address of the designated limited
32 liability company known to the party, specifying the address to which
33 the copy was sent. If there is no registered agent and no known address
34 of the designating limited liability company, the party shall attach an
35 affidavit to the certificate stating that a diligent but unsuccessful
36 search was made by the party to locate the limited liability company,
37 specifying what efforts were made.

38 (ii) sent by or on behalf of the plaintiff to such limited liability
39 company by registered or certified mail with return receipt requested to
40 the last address of such limited liability company known to the plain-
41 tiff.

42 (ii) Where service of a copy of process was effected by mailing in
43 accordance with this section, proof of service shall be by affidavit of
44 compliance with this section filed, together with the process, within
45 thirty days after receipt of the return receipt signed by the limited
46 liability company or other official proof of delivery or of the original
47 envelope mailed. If a copy of the process is mailed in accordance with
48 this section, there shall be filed with the affidavit of compliance
49 either the return receipt signed by such limited liability company or
50 other official proof of delivery, if acceptance was refused by it, the
51 original envelope with a notation by the postal authorities that accept-
52 ance was refused. If acceptance was refused a copy of the notice and
53 process together with notice of the mailing by registered or certified
54 mail and refusal to accept shall be promptly sent to such limited
55 liability company at the same address by ordinary mail and the affidavit
56 of compliance shall so state. Service of process shall be complete ten

1 days after such papers are filed with the clerk of the court. The
2 refusal to accept delivery of the registered or certified mail or to
3 sign the return receipt shall not affect the validity of the service and
4 such limited liability company refusing to accept such registered or
5 certified mail shall be charged with knowledge of the contents thereof.

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

9 (a) Service of process on the secretary of state as agent of a domes-
10 tic limited liability company [~~or~~], authorized foreign limited liability
11 company, or other business entity that has designated the secretary of
12 state as agent for service of process pursuant to article ten of this
13 chapter, shall be made by mailing the process and notice of service
14 thereof by certified mail, return receipt requested, to such limited
15 liability company or other business entity, at the post office address
16 on file in the department of state specified for this purpose. On the
17 same day as such process is mailed, a duplicate copy of such process and
18 proof of mailing shall be [~~made by~~] personally [~~delivering~~] delivered
19 and [~~leaving~~] left with the secretary of state or his or her deputy, or
20 with any person authorized by the secretary of state to receive such
21 service, at the office of the department of state in the city of Albany,
22 [~~duplicate copies of such process~~] together with the statutory fee,
23 which fee shall be a taxable disbursement. Proof of mailing shall be by
24 affidavit of compliance with this section. Service of process on such
25 limited liability company or other business entity shall be complete
26 when the secretary of state is so served. [~~The secretary of state shall~~
27 ~~promptly send one of such copies by certified mail, return receipt~~
28 ~~requested, to such limited liability company at the post office address~~
29 ~~on file in the department of state specified for that purpose.~~]

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

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

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

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

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

52 § 804-A. Certificate of change. (a) A foreign limited liability compa-
53 ny may amend its application for authority from time to time to (i)
54 specify or change the location of the limited liability company's
55 office; (ii) specify or change the post office address to which [~~the~~
56 ~~secretary of state~~] a person shall mail a copy of any process against

1 the limited liability company served upon [~~him~~] the secretary of state;
2 and (iii) to make, revoke or change the designation of a registered
3 agent, or to specify or change the address of a registered agent. Any
4 one or more such changes may be accomplished by filing a certificate of
5 change which shall be entitled "Certificate of Change of (name
6 of limited liability company) under section 804-A of the Limited Liabil-
7 ity Company Law" and shall be signed and delivered to the department of
8 state. It shall set forth:

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

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

14 (3) each change effected thereby[~~r~~].

15 (b) A certificate of change which changes only the post office address
16 to which [~~the secretary of state~~] a person shall mail a copy of any
17 process against a foreign limited liability company served upon [~~him or~~]
18 the secretary of state and/or the address of the registered agent,
19 provided such address being changed is the address of a person, partner-
20 ship [~~or~~], corporation or other limited liability company whose address,
21 as agent, is the address to be changed or who has been designated as
22 registered agent for such limited liability company may be signed and
23 delivered to the department of state by such agent. The certificate of
24 change shall set forth the statements required under subdivision (a) of
25 this section; that a notice of the proposed change was mailed to the
26 foreign limited liability company by the party signing the certificate
27 not less than thirty days prior to the date of delivery to the depart-
28 ment of state and that such foreign limited liability company has not
29 objected thereto; and that the party signing the certificate is the
30 agent of such foreign limited liability company to whose address [~~the~~
31 secretary of state] a person is required to mail copies of process
32 served on the secretary of state or the registered agent, if such be the
33 case. A certificate signed and delivered under this subdivision shall
34 not be deemed to effect a change of location of the office of the
35 foreign limited liability company in whose behalf such certificate is
36 filed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by mailing the process and notice of service thereof by certified mail, return receipt requested, to such corporation or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day

1 that such process is mailed, a duplicate copy of such process and proof
2 of mailing shall be personally ~~delivering~~ delivered to and ~~leaving~~
3 left with the secretary of state or his or her deputy, or with any
4 person authorized by the secretary of state to receive such service, at
5 the office of the department of state in the city of Albany, ~~[duplicate~~
6 ~~copies of such process]~~ together with the statutory fee, which fee shall
7 be a taxable disbursement. Proof of mailing shall be by affidavit of
8 compliance with this section. Service of process on such corporation or
9 other business entity shall be complete when the secretary of state is
10 so served. ~~[The secretary of state shall promptly send one of such~~
11 ~~copies by certified mail, return receipt requested, to such corporation,~~
12 ~~at the post office address, on file in the department of state, speci-~~
13 ~~fied for the purpose.]~~ If a domestic corporation formed under article
14 four of this chapter or an authorized foreign corporation has no such
15 address on file in the department of state, the ~~[secretary of state~~
16 ~~shall so mail such]~~ duplicate copy of the process shall be mailed to
17 such corporation at the address of its office within this state on file
18 in the department.

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

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

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

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

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

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

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

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

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

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 the corporation served upon ~~[him or]~~ the secretary of
54 state and/or the address of the registered agent, provided such address
55 being changed is the address of a person, partnership, limited liability
56 company or other corporation whose address, as agent, is the address to

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

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

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

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

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

34 § 50. Subparagraph 6 of paragraph (a) of section 1304 of the not-for-
35 profit corporation law, as renumbered by chapter 590 of the laws of
36 1982, is amended to read as follows:

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

42 § 51. Subparagraph 7 of paragraph (a) of section 1308 of the not-for-
43 profit corporation law, as renumbered by chapter 186 of the laws of
44 1983, is amended to read as follows:

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

48 § 52. Subparagraph 2 of paragraph (a) and paragraph (c) of section
49 1310 of the not-for-profit corporation law, paragraph (c) as amended by
50 chapter 172 of the laws of 1999, are amended to read as follows:

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

54 (c) A certificate of change of application for authority which changes
55 only the post office address to which [~~the secretary of state~~] a person
56 shall mail a copy of any process against an authorized foreign corpo-

ration 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

1 (Certificate of change, contents) to effect a change in the post office
2 address under subparagraph ~~[(a)-(4)]~~ (7) of paragraph (a) of section
3 1308 (Amendments or changes).

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

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

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

19 (1) the name of the limited partnership and the date that its ~~[arti-~~
20 ~~cles of organization]~~ certificate of limited partnership or application
21 for authority was filed by the department of state.

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

27 (3) that at least sixty days prior to the filing of the certificate of
28 resignation for receipt of process with the department of state the
29 party has sent a copy of the certificate of resignation for receipt of
30 process by registered or certified mail to the address of the registered
31 agent of the ~~[designated]~~ designating limited partnership, if other than
32 the party filing the certificate of resignation~~[,]~~ for receipt of proc-
33 ess, or if the ~~[resigning]~~ designating limited partnership has no regis-
34 tered agent, then to the last address of the ~~[designated]~~ designating
35 limited partnership, known to the party, specifying the address to which
36 the copy was sent. If there is no registered agent and no known address
37 of the designating limited partnership the party shall attach an affida-
38 vit to the certificate stating that a diligent but unsuccessful search
39 was made by the party to locate the limited partnership, specifying what
40 efforts were made.

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

43 (a) In addition to the designation of the secretary of state, each
44 limited partnership or authorized foreign limited partnership may desig-
45 nate a registered agent upon whom process against the limited partner-
46 ship may be served. The agent must be (i) a natural person who is a
47 resident of this state or has a business address in this state, ~~[or]~~
48 (ii) a domestic corporation or a foreign corporation authorized to do
49 business in this state, or (iii) a domestic limited liability company or
50 a foreign limited liability company authorized to do business in this
51 state.

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

55 (a) Service of process on the secretary of state as agent of a domes-
56 tic or authorized foreign limited partnership, or other business entity

1 that has designated the secretary of state as agent for service of process pursuant to this chapter, shall be made ~~[as follows:]~~

2
3 ~~(1) By~~ by mailing the process and notice of service of process pursuant to this section by certified mail, return receipt requested, to such domestic or authorized foreign limited partnership or other business entity, at the post office address on file in the department of state specified for this purpose. On the same day as the process is mailed, a duplicate copy of such process and proof of mailing shall be personally
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9 ~~[delivering]~~ delivered to and ~~[leaving]~~ left with ~~[him or his]~~ the secretary of state or a deputy, or with any person authorized by the
10 secretary of state to receive such service, at the office of the department of state in the city of Albany, ~~[duplicate copies of such process]~~
11 together with the statutory fee, which fee shall be a taxable disbursement. Proof of mailing shall be by affidavit of compliance with this section. Service of process on such limited partnership or other business entity shall be complete when the secretary of state is so served.

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

18
19 ~~[(3) The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, addressed to the limited partnership at the post office address, on file in the department of state, specified for that purpose.]~~

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

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

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

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

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

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

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

4 § 121-202-A. Certificate of change. (a) A certificate of limited part-
5 nership may be changed by filing with the department of state a certif-
6 icate of change entitled "Certificate of Change of (name of limit-
7 ed partnership) under Section 121-202-A of the Revised Limited
8 Partnership Act" and shall be signed and delivered to the department of
9 state. A certificate of change may (i) specify or change the location of
10 the limited partnership's office; (ii) specify or change the post office
11 address to which [~~the secretary of state~~] a person shall mail a copy of
12 process against the limited partnership served upon [~~him~~] the secretary
13 of state; and (iii) make, revoke or change the designation of a regis-
14 tered agent, or to specify or change the address of its registered
15 agent. It shall set forth:

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

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

20 (3) each change effected thereby.

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

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

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

51 (5) a statement that the secretary of state has been designated as its
52 agent 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 or~~
55 ~~her~~] the secretary of state;

1 § 63. Section 121-903-A of the partnership law, as added by chapter
2 448 of the laws of 1998, is amended to read as follows:

3 § 121-903-A. Certificate of change. (a) A foreign limited partnership
4 may change its application for authority by filing with the department
5 of state a certificate of change entitled "Certificate of Change
6 of (name of limited partnership) under Section 121-903-A of the
7 Revised Limited Partnership Act" and shall be signed and delivered to
8 the department of state. A certificate of change may (i) change the
9 location of the limited partnership's office; (ii) change the post
10 office address to which [~~the secretary of state~~] a person shall mail a
11 copy of process against the limited partnership served upon [~~him~~] the
12 secretary of state; and (iii) make, revoke or change the designation of
13 a registered agent, or to specify or change the address of its regis-
14 tered agent. It shall set forth:

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

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

20 (3) each change effected thereby.

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

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

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

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

51 (7) A designation of the secretary of state as its agent upon whom
52 process against it may be served in the manner set forth in section
53 121-109 of this article in any action or special proceeding, and a post
54 office address, within or without this state, to which [~~the secretary of~~
55 ~~state~~] a person shall mail a copy of any process served upon [~~him~~] the

1 secretary of state. Such post office address shall supersede any prior
2 address designated as the address to which process shall be mailed.

3 § 66. Subparagraphs 2 and 4 of paragraph (I) and clause 4 of subpara-
4 graph (A) of paragraph (II) of subdivision (a) of section 121-1500 of
5 the partnership law, subparagraph 2 of paragraph (I) as added by chapter
6 576 of the laws of 1994, subparagraph 4 of paragraph (I) as amended by
7 chapter 643 of the laws of 1995 and such paragraph as redesignated by
8 chapter 767 of the laws of 2005 and clause 4 of subparagraph (A) of
9 paragraph (II) as amended by chapter 44 of the laws of 2006, are amended
10 to read as follows:

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

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

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

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

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

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

35 (j-1) A certificate of change which changes only the post office
36 address to which ~~[the secretary of state]~~ a person shall mail a copy of
37 any process against a registered limited liability partnership served
38 upon ~~[him]~~ the secretary of state and/or the address of the registered
39 agent, provided such address being changed is the address of a person,
40 partnership, limited liability company or corporation whose address, as
41 agent, is the address to be changed or who has been designated as regis-
42 tered agent for such registered limited liability partnership shall be
43 signed and delivered to the department of state by such agent. The
44 certificate of change shall set forth: (i) the name of the registered
45 limited liability partnership and, if it has been changed, the name
46 under which it was originally filed with the department of state; (ii)
47 the date of filing of its initial registration or notice statement;
48 (iii) each change effected thereby; (iv) that a notice of the proposed
49 change was mailed to the limited liability partnership by the party
50 signing the certificate not less than thirty days prior to the date of
51 delivery to the department of state and that such limited liability
52 partnership has not objected thereto; and (v) that the party signing the
53 certificate is the agent of such limited liability partnership to whose
54 address ~~[the secretary of state]~~ a person is required to mail copies of
55 process served on the secretary of state or the registered agent, if
56 such be the case. A certificate signed and delivered under this subdivi-

1 sion shall not be deemed to effect a change of location of the office of
2 the limited liability partnership in whose behalf such certificate is
3 filed. The certificate of change shall be accompanied by a fee of five
4 dollars.

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

8 (a) In order for a foreign limited liability partnership to carry on
9 or conduct or transact business or activities as a New York registered
10 foreign limited liability partnership in this state, such foreign limit-
11 ed liability partnership shall file with the department of state a
12 notice which shall set forth: (i) the name under which the foreign
13 limited liability partnership intends to carry on or conduct or transact
14 business or activities in this state; (ii) the date on which and the
15 jurisdiction in which it registered as a limited liability partnership;
16 (iii) the address, within this state, of the principal office of the
17 foreign limited liability partnership; (iv) the profession or
18 professions to be practiced by such foreign limited liability partner-
19 ship and a statement that it is a foreign limited liability partnership
20 eligible to file a notice under this chapter; (v) a designation of the
21 secretary of state as agent of the foreign limited liability partnership
22 upon whom process against it may be served and the post office address
23 within or without this state, to which [~~the secretary of state~~] a person
24 shall mail a copy of any process against it [~~or~~] served upon [~~it~~] the
25 secretary of state; (vi) if the foreign limited liability partnership is
26 to have a registered agent, its name and address in this state and a
27 statement that the registered agent is to be the agent of the foreign
28 limited liability partnership upon whom process against it may be
29 served; (vii) a statement that its registration as a limited liability
30 partnership is effective in the jurisdiction in which it registered as a
31 limited liability partnership at the time of the filing of such notice;
32 (viii) a statement that the foreign limited liability partnership is
33 filing a notice in order to obtain status as a New York registered
34 foreign limited liability partnership; (ix) if the registration of the
35 foreign limited liability partnership is to be effective on a date later
36 than the time of filing, the date, not to exceed sixty days from the
37 date of filing, of such proposed effectiveness; and (x) any other
38 matters the foreign limited liability partnership determines to include
39 in the notice. Such notice shall be accompanied by either (1) a copy of
40 the last registration or renewal registration (or similar filing), if
41 any, filed by the foreign limited liability partnership with the juris-
42 diction where it registered as a limited liability partnership or (2) a
43 certificate, issued by the jurisdiction where it registered as a limited
44 liability partnership, substantially to the effect that such foreign
45 limited liability partnership has filed a registration as a limited
46 liability partnership which is effective on the date of the certificate
47 (if such registration, renewal registration or certificate is in a
48 foreign language, a translation thereof under oath of the translator
49 shall be attached thereto). Such notice shall also be accompanied by a
50 fee of two hundred fifty dollars.

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

55 (ii) the address, within this state, of the principal office of the
56 New York registered foreign limited liability partnership, (iii) the

1 post office address, within or without this state, to which [~~the secre-~~
2 ~~tary of state~~] a person shall mail a copy of any process accepted
3 against it served upon [~~him or her~~] the secretary of state, which
4 address shall supersede any previous address on file with the department
5 of state for this purpose, and

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

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

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

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

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

45 (a) Service of process on the secretary of state as agent of a regis-
46 tered limited liability partnership or New York registered foreign
47 limited liability partnership under this article shall be made by mail-
48 ing the process and notice of service thereof by certified mail, return
49 receipt requested, to such registered limited liability partnership or
50 New York registered foreign limited liability partnership, at the post
51 office address on file in the department of state specified for such
52 purpose. On the same date that such process is mailed, a duplicate copy
53 of such process and proof of mailing together with the statutory fee,
54 which fee shall be a taxable disbursement, shall be personally [~~deliver-~~
55 ~~ing~~] delivered to and [~~leaving~~] left with the secretary of state or a
56 deputy, or with any person authorized by the secretary of state to

1 receive such service, at the office of the department of state in the
2 city of Albany, [~~duplicate copies of such process~~] together with the
3 statutory fee, which fee shall be a taxable disbursement. Proof of mail-
4 ing shall be by affidavit of compliance with this section. Service of
5 process on such registered limited liability partnership or New York
6 registered foreign limited liability partnership shall be complete when
7 the secretary of state is so served. [~~The secretary of state shall~~
8 ~~promptly send one of such copies by certified mail, return receipt~~
9 ~~requested, to such registered limited liability partnership, at the post~~
10 ~~office address on file in the department of state specified for such~~
11 ~~purpose.~~]

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

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

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

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

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

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

44 (3) That at least sixty days prior to the filing of the certificate of
45 resignation for receipt of process with the department of state the
46 party has sent a copy of the certificate of resignation for receipt of
47 process by registered or certified mail to the address of the registered
48 agent of the [~~designated~~] designating limited liability partnership, if
49 other than the party filing the certificate of resignation, for receipt
50 of process, or if the [~~resigning~~] designating limited liability partner-
51 ship has no registered agent, then to the last address of the [~~desig-~~
52 ~~nated~~] designating limited liability partnership, known to the party,
53 specifying the address to which the copy was sent. If there is no regis-
54 tered agent and no known address of the designating limited liability
55 partnership the party shall attach an affidavit to the certificate stat-
56 ing that a diligent but unsuccessful search was made by the party to

1 locate the limited liability partnership, specifying what efforts were
2 made.

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

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

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

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

19 15. "Non-institutional portion" shall mean the part or portion of a
20 combined-use facility other than the institutional portion. If the non-
21 institutional portion, or any part thereof, consists of a condominium,
22 the consent of the trust which has developed or approved the developer
23 of such condominium shall be required prior to any amendment of the
24 declaration of such condominium pursuant to subdivision [~~nine~~] eight of
25 section three hundred thirty-nine-n of the real property law and prior
26 to any amendment of the by-laws of such condominium pursuant to para-
27 graph (j) of subdivision one of section three hundred thirty-nine-v of
28 the real property law, and whether or not such trust is a unit owner of
29 such condominium, it may exercise the rights of the board of managers
30 and an aggrieved unit owner under section three hundred thirty-nine-j of
31 the real property law in the case of a failure of any unit owner of such
32 condominium to comply with the by-laws of such condominium and with the
33 rules, regulations, and decisions adopted pursuant thereto.

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

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

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

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

50 (c) Service of process on the secretary of state as agent of a board
51 of managers shall be made by mailing the process and notice of service
52 of process pursuant to this section by certified mail, return receipt
53 requested, to such board of managers, at the post office address on file
54 in the department of state specified for this purpose. On the same day
55 that such process is mailed, a duplicate copy of such process and proof
56 of mailing shall be personally delivered to and left with the secretary

1 of state or a deputy, or with any person authorized by the secretary of
2 state to receive such service, at the office of the department of state
3 in the city of Albany, a duplicate copy of such process with proof of
4 mailing together with the statutory fee, which shall be a taxable
5 disbursement. Proof of mailing shall be by affidavit of compliance with
6 this section. Service of process on a board of managers shall be
7 complete when the secretary of state is so served.

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

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

17 (f) The department of state shall keep a record of each process served
18 under this section, including the date of service. It shall, upon
19 request, made within ten years of such service, issue a certificate
20 under its seal certifying as to the receipt of process by an authorized
21 person, the date and place of such service and the receipt of the statu-
22 tory fee. Process served on the secretary of state under this section
23 shall be destroyed by the department of state after a period of ten
24 years from such service.

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

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

35 3. Service of such process upon the secretary of state shall be made
36 by personally delivering to and leaving with ~~[him or his]~~ the secretary
37 of state or a deputy, or with any person authorized by the secretary of
38 state to receive such service, at the office of the department of state
39 in the city of Albany, ~~[duplicate copies]~~ a copy of such process and
40 proof of mailing together with a fee of five dollars if the action is
41 solely for the recovery of a sum of money not in excess of two hundred
42 dollars and the process is so endorsed, and a fee of ten dollars in any
43 other action or proceeding, which fee shall be a taxable disbursement.
44 If such process is served upon behalf of a county, city, town or
45 village, or other political subdivision of the state, the fee to be paid
46 to the secretary of state shall be five dollars, irrespective of the
47 amount involved or the nature of the action on account of which such
48 service of process is made. ~~[If the cost of registered mail for trans-~~
49 ~~mitting a copy of the process shall exceed two dollars, an additional~~
50 ~~fee equal to such excess shall be paid at the time of the service of~~
51 ~~such process.]~~ Proof of mailing shall be by affidavit of compliance with
52 this section. Proof of service shall be by affidavit of compliance with
53 this subdivision filed by or on behalf of the plaintiff together with
54 the process, within ten days after such service, with the clerk of the
55 court in which the action or special proceeding is pending. Service
56 made as provided in this section shall be complete ten days after such

1 papers are filed with the clerk of the court and shall have the same
2 force and validity as if served on him personally within the state and
3 within the territorial jurisdiction of the court from which the process
4 issues.

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

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

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

1 and by delivering a copy thereof to, and leaving such copy with, the
2 president, vice-president, secretary, assistant secretary, treasurer,
3 assistant treasurer, or cashier of such corporation, or the officer
4 performing corresponding functions under another name, or a director or
5 managing agent of such corporation, personally without the state. Proof
6 of such personal service without the state shall be filed with the clerk
7 of the court in which the action is pending within thirty days after
8 such service, and such service shall be complete ten days after proof
9 thereof is filed.

10 § 81. Section 216 of the tax law, as added by chapter 415 of the laws
11 of 1944, the opening paragraph as amended by chapter 100 of the laws of
12 1964 and redesignated by chapter 613 of the laws of 1976, is amended to
13 read as follows:

14 § 216. Collection of taxes. Every foreign corporation (other than a
15 moneyed corporation) subject to the provisions of this article, except a
16 corporation having a certificate of authority [~~under section two hundred~~
17 ~~twelve of the general corporation law~~] or having authority to do busi-
18 ness by virtue of section thirteen hundred five of the business corpo-
19 ration law, shall file in the department of state a certificate of
20 designation in its corporate name, signed and acknowledged by its presi-
21 dent or a vice-president or its secretary or treasurer, under its corpo-
22 rate seal, designating the secretary of state as its agent upon whom
23 process in any action provided for by this article may be served within
24 this state, and setting forth an address to which [~~the secretary of~~
25 ~~state~~] a person shall mail a copy of any such process against the corpo-
26 ration which may be served upon [~~him~~] the secretary of state. In case
27 any such corporation shall have failed to file such certificate of
28 designation, it shall be deemed to have designated the secretary of
29 state as its agent upon whom such process against it may be served; and
30 until a certificate of designation shall have been filed the corporation
31 shall be deemed to have directed [~~the secretary of state~~] a person to
32 mail [~~copies~~] a copy of process served upon [~~him~~] the secretary of state
33 to the corporation at its last known office address within or without
34 the state. When a certificate of designation has been filed by such
35 corporation [~~the secretary of state~~] a person serving such process shall
36 mail [~~copies~~] a copy of process thereafter served upon [~~him~~] a person
37 serving such process to the address set forth in such certificate. Any
38 such corporation, from time to time, may change the address to which
39 [~~the secretary of state~~] a person is directed to mail copies of process,
40 by filing a certificate to that effect executed, signed and acknowledged
41 in like manner as a certificate of designation as herein provided.
42 Service of process upon any such corporation or upon any corporation
43 having a certificate of authority [~~under section two hundred twelve of~~
44 ~~the general corporation law~~] or having authority to do business by
45 virtue of section thirteen hundred five of the business corporation law,
46 in any action commenced at any time pursuant to the provisions of this
47 article, may be made by either (1) personally delivering to and leaving
48 with the secretary of state, a deputy secretary of state or with any
49 person authorized by the secretary of state to receive such service
50 [~~duplicate copies~~] a copy thereof at the office of the department of
51 state in the city of Albany, in which event [~~the secretary of state~~] a
52 person serving such process shall forthwith send by [~~registered~~] certi-
53 fied mail, return receipt requested, [~~one of such copies~~] a duplicate
54 copy to the corporation at the address designated by it or at its last
55 known office address within or without the state, or (2) personally
56 delivering to and leaving with the secretary of state, a deputy secre-

1 tary of state or with any person authorized by the secretary of state to
2 receive such service, a copy thereof at the office of the department of
3 state in the city of Albany and by delivering a copy thereof to, and
4 leaving such copy with, the president, vice-president, secretary,
5 assistant secretary, treasurer, assistant treasurer, or cashier of such
6 corporation, or the officer performing corresponding functions under
7 another name, or a director or managing agent of such corporation,
8 personally without the state. Proof of such personal service without
9 the state shall be filed with the clerk of the court in which the action
10 is pending within thirty days after such service, and such service shall
11 be complete ten days after proof thereof is filed.

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

14 (a) Designation for service of process.--Every petroleum business
15 which is a corporation, except such a petroleum business having a
16 certificate of authority [~~under section two hundred twelve of the gener-~~
17 ~~al corporation law~~] or having authority to do business by virtue of
18 section thirteen hundred five of the business corporation law, shall
19 file in the department of state a certificate of designation in its
20 corporate name, signed and acknowledged by its president or vice-presi-
21 dent or its secretary or treasurer, under its corporate seal, designat-
22 ing the secretary of state as its agent upon whom process in any action
23 provided for by this article may be served within this state, and
24 setting forth an address to which [~~the secretary of state~~] a person
25 shall mail a copy of any such process against such petroleum business
26 which may be served upon [~~him~~] the secretary of state. In case any such
27 petroleum business shall have failed to file such certificate of design-
28 nation, it shall be deemed to have designated the secretary of state as
29 its agent upon whom such process against it may be served; and until a
30 certificate of designation shall have been filed such a petroleum busi-
31 ness shall be deemed to have directed [~~the secretary of state~~] a person
32 to mail copies of process served upon [~~him~~] the secretary of state to
33 such petroleum business at its last known office address within or with-
34 out the state. When a certificate of designation has been filed by such
35 a petroleum business [~~the secretary of state~~] a person serving process
36 shall mail copies of process thereafter served upon [~~him~~] the secretary
37 of state to the address set forth in such certificate. Any such petrole-
38 um business, from time to time, may change the address to which [~~the~~
39 ~~secretary of state~~] a person is directed to mail copies of process, by
40 filing a certificate to that effect executed, signed and acknowledged in
41 like manner as a certificate of designation as herein provided.

42 (b) Service of process.--Service of process upon any petroleum busi-
43 ness which is a corporation (including any such petroleum business
44 having a certificate of authority [~~under section two hundred twelve of~~
45 ~~the general corporation law~~] or having authority to do business by
46 virtue of section thirteen hundred five of the business corporation
47 law), in any action commenced at any time pursuant to the provisions of
48 this article, may be made by either (1) personally delivering to and
49 leaving with the secretary of state, a deputy secretary of state or with
50 any person authorized by the secretary of state to receive such service
51 [~~duplicate copies~~] a copy thereof at the office of the department of
52 state in the city of Albany, in which event [~~the secretary of state~~] a
53 person serving process shall forthwith send by [~~registered~~] certified
54 mail, return receipt requested, [~~one of such copies~~] a duplicate copy to
55 such petroleum business at the address designated by it or at its last
56 known office address within or without the state, or (2) personally

1 delivering to and leaving with the secretary of state, a deputy secre-
2 tary of state or with any person authorized by the secretary of state to
3 receive such service, a copy thereof at the office of the department of
4 state in the city of Albany and by delivering a copy thereof to, and
5 leaving such copy with, the president, vice-president, secretary,
6 assistant secretary, treasurer, assistant treasurer, or cashier of such
7 petroleum business, or the officer performing corresponding functions
8 under another name, or a director or managing agent of such petroleum
9 business, personally without the state. Proof of such personal service
10 without the state shall be filed with the clerk of the court in which
11 the action is pending within thirty days after such service, and such
12 service shall be complete ten days after proof thereof is filed.

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

15 PART R

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

22 § 2. This act shall take effect immediately, provided however, that
23 section one of this act shall be deemed to have been in full force and
24 effect on and after April 1, 2003 and shall expire March 31, ~~2020~~
25 2021.

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

28 PART S

29 Section 1. The general business law is amended by adding a new section
30 390-d to read as follows:

31 § 390-d. Gender pricing discrimination. 1. Definitions. For the
32 purposes of this section, the following terms shall have the following
33 meanings:

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

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

38 (c) "Substantially similar" shall mean (i) two consumer products that
39 exhibit no substantial differences in the materials used in production,
40 the intended use of the product, and the functional design and features
41 of the product, or (ii) two consumer services that exhibit no substan-
42 tial difference in the amount of time to provide the services, the
43 difficulty in providing the services, or the cost of providing the
44 services. A difference in coloring among any consumer product shall not
45 be construed as a substantial difference for the purposes of this para-
46 graph.

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

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

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

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

13 (i) tailors or businesses providing aftermarket clothing alterations;
14 (ii) barbers or hair salons;
15 (iii) dry cleaners and laundries providing services to individuals;
16 and

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

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

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

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

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

33 6. (a) The attorney general may issue a notice directing the cessation
34 of any conduct by a person, firm, partnership, company, corporation, or
35 other business entity which the attorney general has reason to believe
36 has violated this section. If any person, firm, partnership, company,
37 corporation, or other business entity fails to submit evidence demon-
38 strating differences in the amount of time, difficulty or cost incurred
39 in manufacturing such product or offering such service within five busi-
40 ness days after service of such notice, or if the attorney general
41 determines that such evidence fails to demonstrate legally excusable
42 differences provided for in subdivision four of this section, the attor-
43 ney general may bring an action in the name and on behalf of the people
44 of the state of New York to enjoin such acts and to obtain restitution
45 of any moneys or property obtained directly or indirectly by any such
46 unlawful acts. In such action preliminary relief may be granted under
47 article sixty-three of the civil practice law and rules. In any such
48 proceeding, the court shall impose a civil penalty in an amount not to
49 exceed twenty-five thousand dollars.

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

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

(d) The attorney general shall have power at all times, either personally or by his or her deputies, to subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to require the production of any relevant books or papers. Such examination may be conducted on any subject relating to the duties imposed upon, or the powers vested in, the attorney general under the provisions of this section. Any person, firm, partnership, company, corporation, or other business entity which fails to obey the command of a subpoena without reasonable excuse or refuses, without reasonable cause, to be sworn or to be examined or to answer a question or to produce a book or paper when ordered so to do by the officer duly conducting such inquiry, or fails to perform any act required hereunder to be performed, shall be guilty of a misdemeanor and shall also be 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. As used in sections 902, 905 and 906 of this article, "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.

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

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

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

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

10. "Telemarketing sales call" means a telephone call or electronic messaging text, made directly or indirectly by a telemarketer or by any outbound telephone calling technology that delivers a prerecorded message to a customer or to a customer's voicemail or answering machine

1 service, in which such telephone call or electronic messaging text is
2 for the purpose of inducing payment or the exchange of any other consid-
3 eration for any goods or services.

4 11. "Unsolicited telemarketing sales call" means any telemarketing
5 sales call other than a call made:

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

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

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

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

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

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

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

31 17. "Automatic number identification" means any data message, protocol
32 or part thereof which communicates the telephone number to be displayed
33 on the caller identification of the telephone call recipient. Automatic
34 number identification includes a calling party number, initial address
35 message, and calling line identification.

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

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

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

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

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

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

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

3 25. "SHAKEN" means signature-based handling of asserted information
4 using TOKENS.

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

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

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

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

17 30. "Consumer telephone call" means a call made to a telephone number
18 by a telephone solicitor, whether by device, live operator, or any
19 combination thereof, for the purpose of soliciting a sale of any consum-
20 er goods or services for personal, family or household purposes to the
21 consumer called, or for the purpose of soliciting an extension of credit
22 for consumer goods or services to the consumer called, or for the
23 purpose of obtaining information that will or may be used for the direct
24 solicitation of a sale of consumer goods or services to the consumer
25 called or an extension of credit for such purposes; provided, however,
26 that "consumer telephone call" shall not include a call made by a tele-
27 phone corporation, as defined by subdivision seventeen of section two of
28 the public service law, in response to a specific inquiry initiated by a
29 consumer regarding that consumer's existing or requested telephone
30 service.

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

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

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

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

42 35. "Principal" means any person participating in or responsible for
43 the management of a telemarketer's business, whether or not the position
44 is compensated, including but not limited to an owner in the case of a
45 sole proprietorship, an officer, director or stockholder holding more
46 than ten percent of the outstanding stock in the case of a corporation,
47 a partner in the case of a partnership, and a manager or member in the
48 case of a limited liability company.

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

54 37. "Prize promotion" means a sweepstakes or other game of chance or
55 an oral or written, express or implied representation that a person has

1 won, has been selected to receive or is eligible or may be eligible to
2 receive a prize or purported prize.

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

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

13 b. the purpose of the telephone call;

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

16 d. whether the call is being recorded.

17 2. It shall be unlawful for any telemarketer or seller to knowingly
18 cause any voice service providing caller identification service to tran-
19 smit misleading, inaccurate, or false caller identification information,
20 provided that it shall not be a violation to substitute (for the name
21 and phone number used in, or billed for, making the call) the name or
22 telephone number of the person or seller on behalf of which a telemar-
23 keting call is placed.

24 3. Prior to the purchase of any good or service, telemarketers shall
25 disclose to the customer the cost of the goods or services that are the
26 subject of the call and if the offer includes a negative option feature,
27 all material terms and conditions of the negative option feature,
28 including, but not limited to the fact that the customer's account will
29 be charged unless the customer takes an affirmative action to avoid the
30 charges, the dates the charges will be submitted for payment, and the
31 specific steps the customer must take to avoid the charge.

32 4. a. The department is authorized to establish, manage, and maintain
33 a no telemarketing sales calls statewide registry which shall contain a
34 list of customers who do not wish to receive unsolicited telemarketing
35 sales calls. The department may contract with a private vendor to estab-
36 lish, manage and maintain such registry, provided the private vendor has
37 maintained national no telemarketing sales calls registries for more
38 than two years, and the contract requires the vendor to provide the no
39 telemarketing sales calls registry in a printed hard copy format and in
40 any other format as prescribed by the department.

41 b. The department is authorized to have the national Do Not Call
42 registry established, managed and maintained by the federal trade
43 commission pursuant to 15 U.S.C. 6151, and referenced by 16 C.F.R.
44 section 310.4 (b)(1)(iii)(B), to serve as the New York state no telemar-
45 keting sales calls statewide registry provided for by this section. The
46 department is further authorized to take whatever administrative actions
47 may be necessary or appropriate for such transition including, but not
48 limited to, providing the telephone numbers of New York customers regis-
49 tered on the no telemarketing sales calls statewide registry to the
50 federal trade commission, for inclusion on the national Do Not Call
51 registry.

52 5. No telemarketer or seller may make or cause to be made any unsolic-
53 ited telemarketing sales call to any customer when that customer's tele-
54 phone number has been on the national Do Not Call registry, established
55 by the federal trade commission, for a period of thirty-one days prior

1 to the date the call is made, pursuant to 16 C.F.R. section
2 310.4(b)(1)(iii)(B).

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

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

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

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

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

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

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

26 f. contains the following language:

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

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

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

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

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

53 11. In the case of any telemarketing sales call made by a natural
54 person, the telemarketer or seller shall inform the customer that he or
55 she may request that his or her telephone number be added to the sell-
56 er's entity specific do not call list. If the customer opts to do so,

1 the telemarketer or seller shall immediately end the call and shall add
2 the number called to such list or cause the number called to be added to
3 such list.

4 12. No telemarketer or seller shall transmit, share, or otherwise make
5 available any customer's contact information, including name, telephone
6 number, or email address, which has been provided to such telemarketer
7 or seller by such customer, to any person, corporation, or other entity
8 without the express agreement of the consumer in writing or in electron-
9 ic format, unless otherwise required by law, or pursuant to a lawful
10 subpoena or court order. No such agreement shall authorize a telemarket-
11 er or seller to transmit, share, or otherwise make available such
12 consumer's contact information for more than thirty days after execution
13 of such agreement.

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

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

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

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

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

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

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

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

52 18. If any clause, sentence, paragraph or part of this section shall
53 be adjudged by any court of competent jurisdiction to be invalid, such
54 judgment shall not affect, impair or invalidate the remainder thereof,
55 but shall be confined in its operation to the clause, sentence, para-

1 graph or part thereof directly involved in the controversy in which such
2 judgment shall have been rendered.

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

5 a. A voice service provider shall implement the STIR/SHAKEN authenti-
6 cation framework, or alternative technology that provides compatible or
7 superior capability, to verify and authenticate caller identification
8 information in the internet protocol networks of voice service provid-
9 ers.

10 b. A voice service provider shall take reasonable measures to imple-
11 ment an effective call authentication framework, or alternative technol-
12 ogy that provides compatible or superior capability, to verify and
13 authenticate caller identification information in the non-internet
14 protocol networks of the voice service provider.

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

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

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

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

33 3. Where the federal communications commission has granted a delay of
34 required compliance for any provider or class of providers of voice
35 service or type of voice calls, compliance under paragraph b of subdivi-
36 sion one of this section may be delayed, but only to the extent that
37 such a provider or class of providers of voice service or type of voice
38 calls, materially relies on a non-internet protocol network for the
39 provision of such service or calls, until a call authentication protocol
40 has been developed for calls delivered over non-internet protocol
41 networks and is reasonably available.

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

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

51 6. By July thirty-first of the year following the effective date of
52 this section, and annually thereafter, every voice service provider
53 shall file with both the department, and the secretary to the public
54 service commission, a report setting forth its deployment and review of
55 the best available call authentication technology required by this
56 section, as well as any available upgrades thereto and deployment there-

1 of to persons or entities, as well as any other information that the
2 department, in consultation with the department of public service, may
3 require. Such report shall include:

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

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

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

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

20 8. Whenever there shall be a violation of this section, an application
21 may be made by either a. the attorney general in the name of the people
22 of the state of New York, or b. the public service commission in the
23 case of a voice service provider subject to the jurisdiction of the
24 public service commission, to a court or justice having jurisdiction, to
25 issue an injunction, and upon notice to the defendant of not less than
26 five days, to enjoin and restrain the continuance of such violations,
27 and for the enforcement of the penalties provided in this section.

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

40 10. The public service commission and the department may promulgate
41 any rules or regulations necessary to implement and enforce the
42 provisions of this section.

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

46 a. Voice service providers shall offer subscribers services that are
47 capable of blocking calls to a telephone or other device, on an opt-out
48 basis. Such call blocking may include sending a call directly to the
49 called subscriber's voicemail, or to a "personal assistant" that answers
50 the call, or to a "CAPTCHA" (Completely Automated Public Turing test to
51 tell Computers and Humans Apart) menu that confronts the calling party
52 and requires it to confirm that it is not a robot. Voice service
53 providers shall, in a manner that is clear for a subscriber to under-
54 stand: (i) offer sufficient information to subscribers so that subscrib-
55 ers can make an informed choice as to whether they wish to opt-out of

1 such service; and (ii) clearly disclose to subscribers what types of
2 calls may be blocked and the risks of blocking wanted calls.

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

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

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

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

13 (iii) a valid North American numbering plan number that is allocated
14 to a provider by the North American number plan administrator or pooling
15 administrator, but is unused, so long as the provider blocking the calls
16 is the allocatee of the number and confirms that the number is unused or
17 has obtained verification from the allocatee that the number is unused
18 at the time of the blocking. An unused number is a number that is not
19 assigned to a subscriber or otherwise set aside for outbound call use.

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

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

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

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

35 5. By July thirty-first of the year following the effective date of
36 this section, and annually thereafter, every voice service provider
37 shall file with both the department, and the secretary to the public
38 service commission, a report setting forth its deployment and review of
39 the best available call blocking technology required by this section, as
40 well as any available upgrades thereto and deployment thereof to persons
41 or entities, as well as any other information that the department, in
42 consultation with the department of public service, may require. The
43 report shall include a sworn statement by a principal or officer of the
44 voice service provider that the information provided is current and
45 accurate.

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

53 7. Whenever there shall be a violation of this section, an application
54 may be made by either a. the attorney-general in the name of the people
55 of the state of New York, or b. in the case of voice service provider
56 subject to the jurisdiction of the public service law, the public

1 service commission, to a court or justice having jurisdiction, to issue
2 an injunction, and upon notice to the defendant of not less than five
3 days, to enjoin and restrain the continuance of such violations, and for
4 the enforcement of the penalties provided in this section.

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

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

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

22 § 905. Use of automatic telephone dialing systems and placement of
23 consumer telephone calls. 1. No person shall operate an automatic tele-
24 phone dialing system, nor place any consumer telephone call, except in
25 accordance with the provisions of this section. The use of such device
26 by any person, either individually or acting as an officer, agent, or
27 employee of a person operating any automatic telephone dialing system,
28 is subject to the provisions of this section.

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

31 a. state at the beginning of the call the nature of the call and the
32 name of the person or on whose behalf the message is being transmitted
33 and at the end of such message the address, and telephone number of the
34 person on whose behalf the message is transmitted, provided such disclo-
35 sures are not otherwise prohibited or restricted by any federal, state
36 or local law; and

37 b. disconnect the automatic telephone dialing system from the tele-
38 phone line upon the termination of the call by either the person calling
39 or the person called.

40 3. No person shall operate an automatic telephone dialing system which
41 uses a random or sequential number generator to produce a number to be
42 called.

43 4. No automatic telephone dialing system shall be used to call and no
44 consumer telephone call shall be placed to an emergency telephone line
45 including but not limited to any 911 or E-911 line, or any emergency
46 line of any volunteer fire company or fire department; any emergency
47 medical service, ambulance service, voluntary ambulance service or
48 hospital ambulance service as defined in section three thousand one of
49 the public health law; any hospital, nursing home, or residential health
50 care facility as defined in section twenty-eight hundred one of the
51 public health law; any adult care facility as defined in section two of
52 the social services law; or any law enforcement agency or to the tele-
53 phone line of any guest room or patient room of any hospital, nursing
54 home, or residential health care facility as defined in section twenty-
55 eight hundred one of the public health law, or any adult care facility
56 as defined by section two of the social services law. It shall not

1 constitute a violation of this subdivision if the person who places such
2 a call can affirmatively establish that the call was placed inadvertent-
3 ly despite good faith efforts on the part of such person to comply with
4 the provisions of this section and such person has implemented a proce-
5 dure to prevent subsequent calls from being placed to a particular
6 prohibited telephone number.

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

12 6. No telephone solicitor or person who places any consumer telephone
13 call or who operates an automatic telephone dialing system and no
14 employer of any such telephone solicitor or person shall intentionally
15 cause to be installed, or shall intentionally utilize, any blocking
16 device or service to prevent the name and/or telephone number of such
17 solicitor or person, or the name and/or telephone number of his or her
18 employer, from being displayed on a caller identification device of the
19 recipient of any such consumer telephone call. A violation of this
20 subdivision shall be subject to the provisions of subdivision eight of
21 this section.

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

25 b. Notwithstanding the provisions of paragraph a of this subdivision,
26 any entity which operates a telephone warning or alert system which
27 utilizes any such device for emergency purposes shall also be exempted
28 from the provisions of this section.

29 8. Whenever there shall be a violation of this section, an application
30 may be made by the attorney-general in the name of the people of the
31 state of New York to a court or justice having jurisdiction to issue an
32 injunction, and upon notice to the defendant of not less than five days,
33 to enjoin and restrain the continuance of such violations; and if it
34 shall appear to the satisfaction of the court or justice, that the
35 defendant has, in fact, violated this section an injunction may be
36 issued by such court or justice enjoining and restraining any further
37 violation, without requiring proof that any person has, in fact, been
38 injured or damaged thereby. In any such proceeding, the court may make
39 allowances to the attorney-general as provided in paragraph six of
40 subdivision (a) of section eighty-three hundred three of the civil prac-
41 tice law and rules, and direct restitution. Whenever the court shall
42 determine that a violation of subdivision two, three or four of this
43 section has occurred, the court may impose a civil penalty of not more
44 than two thousand dollars per call, up to a total of not more than twen-
45 ty thousand dollars, for calls placed in violation of such subdivisions
46 within a continuous seventy-two hour period. Whenever the court shall
47 determine that a violation of subdivision five of this section, or a
48 violation of subdivision six of this section, has occurred, the court
49 may impose a civil penalty of not more than two thousand dollars. In
50 connection with any such proposed application, the attorney-general is
51 authorized to take proof and make a determination of the relevant facts
52 and to issue subpoenas in accordance with the civil practice law and
53 rules.

54 9. In addition to the right of action granted to the attorney-general
55 pursuant to this section, any person who has received a telephone call
56 in violation of subdivision two, three or four of this section may bring

1 an action in such person's own name to enjoin such unlawful act or prac-
2 tice, an action to recover such person's actual damages or five hundred
3 dollars, whichever is greater, or both such actions. The court may, in
4 its discretion, increase the award of damages to an amount not to exceed
5 three times the actual damages up to one thousand dollars, if the court
6 finds the defendant willfully or knowingly violated such subdivisions.
7 The court may award reasonable attorney's fees to a prevailing plain-
8 tiff. Any damages recoverable pursuant to this section may be recovered
9 in any action which a court may authorize to be brought as a class
10 action pursuant to article nine of the civil practice law and rules.

11 § 906. Telemarketing and consumer fraud and abuse prevention act. 1.
12 Legislative findings and declaration. The legislature finds and declares
13 that the prevention of deceptive and unfair practices in association
14 with telemarketing is in the public interest and subject to the authori-
15 ty of appropriate political subdivisions of the state for the purpose of
16 protecting the public against fraud, deception and other abuses. The
17 legislature intends that the federal telemarketing and consumer fraud
18 and abuse prevention act (P.L. 103-297) be fully enforceable by appro-
19 priate state and local enforcement officials.

20 The legislature further declares that additional requirements applica-
21 ble to the telemarketing industry not present in the federal statute are
22 necessary to protect residents of the state and others from telemarket-
23 ing abuses. The legislature therefore intends that provisions in this
24 section which differ from the aforementioned federal act and other New
25 York state laws regulating telemarketing be construed whenever reason-
26 able as providing additional protections to victims of telemarketing
27 fraud.

28 2. Registration of telemarketers. a. No person shall act as a tele-
29 marketer without first having received a certificate of registration
30 from the secretary as provided in this section. Employees of telemarket-
31 ers shall be exempt from the requirements of this paragraph and para-
32 graph b of this subdivision.

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

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

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

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

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

49 (iv) the name, address and telephone number of each principal of the
50 business;

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

55 (vi) whether any injunction or judgment has been entered into against
56 the applicant or any principal, or such applicant or principal has

1 entered into a settlement agreement, assurance of discontinuance,
2 consent decree or any similar instrument in any civil action involving
3 theft, racketeering, embezzlement, conversion, misappropriation of prop-
4 erty, fraud, or deceptive, unfair, illegal or unconscionable trade prac-
5 tices, and whether any civil action involving such practices is current-
6 ly pending, to the extent not inconsistent with any existing court
7 orders; and

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

11 d. Upon receipt of the completed application for registration and
12 required fee, and unless such certificate of registration has been
13 denied as provided in subdivision four of this section, the secretary
14 shall issue and deliver to the applicant a certificate in such form and
15 manner as the secretary shall prescribe, but which must set forth the
16 applicant's name, business address, and the effective term of the regis-
17 tration. A registration certificate issued or renewed under the
18 provisions of this section shall entitle a person to act as a registered
19 telemarketer for a period of two years from the effective date of the
20 registration.

21 e. Any registration granted under this section may be renewed by the
22 secretary upon application by the holder thereof, in such form as the
23 secretary may prescribe. The secretary shall have the authority to
24 assign staggered expiration dates for licenses at the time of renewal.
25 If the assigned date results in a term that exceeds two years, the
26 applicant shall pay an additional pro-rata adjustment together with the
27 fee prescribed in paragraph f of this subdivision.

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

30 g. The fees collected pursuant to this subdivision shall be deposited
31 to the credit of the business and licensing services account established
32 pursuant to the provisions of section ninety-seven-y of the state
33 finance law.

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

38 i. No person required to be registered under this subdivision shall be
39 entitled to enforce any agreement or seek any consideration or any other
40 payment for goods and services offered through telemarketing unless such
41 person is in compliance with this subdivision and subdivision four of
42 this section.

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

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

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

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

55 b. Such bond, letter of credit, or certificate of deposit shall be
56 maintained for three years from the date the telemarketer ceases tele-

1 marketing, or three years from the date the certificate of registration
2 terminates, whichever is earlier.

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

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

12 e. The aggregate liability of the surety upon the bond or the banking
13 organization upon the letter of credit or certificate of deposit to all
14 persons for all breaches of the conditions of the bond shall in no event
15 exceed the amount of the bond, letter of credit or certificate of depos-
16 it.

17 f. The bond, letter of credit or certificate of deposit shall not be
18 canceled, revoked, diminished or terminated except after notice to, and
19 with the consent of, the secretary at least forty-five days in advance
20 of such cancellation, revocation, or termination. Unless the bond is
21 replaced by another bond, letter of credit or certificate of deposit in
22 conformity with this subdivision prior to the expiration of the forty-
23 five day period, the registration of the telemarketer shall be treated
24 as terminated as of the cancellation, revocation or termination of the
25 bond.

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

29 h. Any change in ownership of a telemarketer shall not release, cancel
30 or terminate liability under this subdivision under any bond, letter of
31 credit, or certificate of deposit filed for any telemarketer as to any
32 customer who was injured as a result of a violation of this section or
33 article ten-B of the personal property law while such bond, letter of
34 credit or certificate of deposit was in effect unless such transferee,
35 purchaser, successor or assignee of such telemarketer obtains a bond,
36 letter of credit or certificate of deposit under this subdivision for
37 the benefit of such customer. Nothing in this paragraph shall be
38 construed to authorize any telemarketer to cancel any bond, letter of
39 credit, or certificate of deposit where such cancellation is not other-
40 wise authorized by this subdivision.

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

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

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

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

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

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

4 (A) this section;

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

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

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

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

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

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

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

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

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

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

33 (iii) give false or misleading information;

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

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

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

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

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

45 (ix) request a fee in advance to remove adverse information or modify
46 adverse information to improve a person's credit history or credit
47 record;

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

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

55 (xii) procure the services of any professional delivery, courier or
56 other pickup service to obtain receipt or possession of a customer's

1 payment, unless the goods or services are delivered with the reasonable
2 opportunity to inspect before any payment is collected; or
3 (xiii) misrepresent, directly or by implication, that a premium is a
4 prize.

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

8 (i) at the beginning of the call and prior to any request by the call-
9 er of the customer to release or disclose any of the customer's personal
10 or financial information, including but not limited, to the customer's
11 name, address, credit card, checking account or other financial account
12 number or information:

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

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

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

20 (D) whether the call is being recorded.

21 (ii) the cost of the goods or services that are the subject of the
22 call.

23 (iii) in any prize promotion, the odds of being able to receive the
24 prize, and if the odds are not calculable in advance, the factors used
25 in calculating the odds; that no purchase or payment is required to win
26 a prize or to participate in a prize promotion; and the no purchase/no
27 payment method of participating in the prize promotion with either
28 instructions on how to participate or an address or local or toll-free
29 telephone number to which customers may write or call for information on
30 how to participate; and all material costs or conditions to receive or
31 redeem a prize that is the subject of the prize promotion.

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

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

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

37 c. initiate a telemarketing call to a person, when that person has
38 stated previously that he or she does not wish to receive solicitation
39 calls from that telemarketer provided, however that nothing in this
40 section shall be construed to prohibit a telemarketer from telemarketing
41 goods, services or investment opportunities to any customer of any
42 affiliate, subsidiary or parent of such telemarketer;

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

46 e. make a false, deceptive or misleading statement in regard to the
47 requirements of subdivision five of this section to a customer, or to
48 engage in any deceptive or unfair act or practice in association with
49 telemarketing.

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

54 7. Unlawful transmission of certain caller identification information.
55 It shall be unlawful for any telemarketer or seller to knowingly cause
56 any voice service providing caller identification service to transmit

1 misleading, inaccurate, or false caller identification information,
2 provided that it shall not be a violation to substitute (for the name
3 and phone number used in, or billed for, making the call) the name or
4 telephone number of the person or seller on behalf of which a telemar-
5 keting call is placed.

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

10 (i) records of calls resulting in a promise by the customer to pay or
11 otherwise exchange consideration for goods and services, including but
12 not limited to the name and last known address of each customer, the
13 goods or services selected, the date such goods were shipped or provided
14 and the quantity provided, the amount charged by the company for the
15 goods or services provided, including all other related fees or charges
16 of any kind, including shipping and handling fees, and the amount actu-
17 ally paid by the customer for the goods and services provided;

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

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

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

28 c. In the event of any dissolution or termination of the
29 telemarketer's business, a representative of the telemarketer shall
30 maintain all records as required under this subdivision, which shall be
31 the person required to maintain such records in the event of dissolution
32 or termination under rules and regulations issued under the act of
33 congress entitled the "telemarketing and consumer fraud and abuse
34 prevention act" (P.L. 103-297), or any person designated by the tele-
35 marketer. In the event of any sale, assignment or other change of owner-
36 ship of the telemarketer's business, the successor or assignee shall
37 maintain all records required by this subdivision. In any case in which
38 this paragraph applies, the telemarketer shall provide notice to the
39 secretary, in the form and manner designated by the secretary of the
40 disposition of such records within thirty days of the dissolution,
41 termination, sale, assignment or change of ownership.

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

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

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

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

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

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

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

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

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

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

13 (i) telephone calls made by a telemarketer, collection agency or
14 attorney engaged in the practice of law for the exclusive purpose of
15 collecting a legal debt owed, in accordance with the applicable
16 provisions of the Federal Fair Debt Collection Practices Act (15 U.S.C.
17 § 1692 et. seq.);

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

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

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

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

30 (i) telephone calls pertaining to a renewal or continuation of an
31 existing or prior contractual relationship or the continuation of an
32 established business relationship between a customer and any telemarket-
33 er, provided that the telemarketer discloses any material changes in the
34 terms and conditions of the prior contract, except for calls made by a
35 telemarketer in which the telemarketer or any of its principals has
36 previously engaged in any act or practice described in subparagraphs
37 (i), (ii), (v), (vi), (vii) and (viii) of paragraph a of subdivision
38 four of this section; and

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

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

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

49 (C) the cost of the goods or services that are the subject of the
50 call.

51 11. Fee and bonding exemptions. The following persons are exempt from
52 the fee and bonding requirements set forth in paragraph f of subdivision
53 two and subdivision three of this section: A person engaged in a busi-
54 ness or occupation which is licensed, registered, chartered, certified
55 or incorporated with or by any state or federal agency. Provided, howev-
56 er, any person not licensed, registered, chartered, certified or incor-

1 porated with any New York state or federal agency, shall submit evidence
2 to the secretary of state, in a form and manner to be prescribed by the
3 secretary, of any license, registration, charter, certification or
4 incorporation issued by an agency or governmental entity in this or any
5 other state.

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

13 b. In every case where the court shall determine that a violation of
14 this section has occurred, it may impose a civil penalty of not less
15 than one thousand dollars nor more than two thousand dollars for each
16 violation provided that for a violation of subdivision seven of this
17 section, the court may impose a civil penalty of not less than five
18 thousand dollars nor more than ten thousand dollars for each violation.
19 Such penalty shall be in addition to the denial of registration or
20 renewal, suspension of registration or revocation of registration or
21 assessment of a fine authorized by subdivision four of this section.

22 c. Any person who contracts with a telemarketer for telemarketing
23 services and has actual knowledge that the telemarketer is acting in
24 violation of this section shall be deemed to be in violation of this
25 section, unless such person takes reasonable measures to prevent and
26 correct any conduct that violates this section.

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

29 13. Criminal penalties. Any person who is convicted of knowingly
30 violating paragraph a or b of subdivision two of this section, or
31 subparagraph (ii), (iii), (iv) or (v) of paragraph a of subdivision five
32 of this section shall be guilty of a class B misdemeanor. Any person who
33 is convicted of knowingly violating subparagraph (xi) or (xii) of para-
34 graph a of subdivision five of this section shall be guilty of a class A
35 misdemeanor.

36 14. Separability clause; construction. If any part or provision of
37 this section or the application thereof to any person or circumstances
38 be adjudged invalid by any court of competent jurisdiction, such judg-
39 ment shall be confined in its operations to the part, provision or
40 application directly involved in the controversy in which such judgment
41 shall have been rendered and shall not affect or impair the validity of
42 the remainder of this section or the application thereof to other
43 persons or circumstances.

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

46 § 3. Subdivision 2 of section 97-www of the state finance law, relat-
47 ing to the consumer protection account, as amended by section 52 of
48 chapter 62 of the laws of 2011, is amended to read as follows:

49 2. Such account shall consist of all penalties received by the depart-
50 ment of state pursuant to section [~~three hundred ninety-nine-z~~] **nine**
51 **hundred two** of the general business law and any additional monies appro-
52 priated, credited or transferred to such account by the Legislature. Any
53 interest earned by the investment of monies in such account shall be
54 added to such account, become part of such account, and be used for the
55 purposes of such account

56 § 4. This act shall take effect immediately.

1

PART U

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

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

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

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

14 Supporters. On a quasi compartment formed by the extension of the
15 scroll.

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

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

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

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

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

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

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

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

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

52

PART V

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

4 1. The secretary of state may appoint and commission as many notaries
5 public for the state of New York as in his or her judgment may be deemed
6 best, whose jurisdiction shall be co-extensive with the boundaries of
7 the state. The appointment of a notary public shall be for a term of
8 four years. An application for an appointment as notary public shall be
9 in form and set forth such matters as the secretary of state shall
10 prescribe. Every person appointed as notary public must, at the time of
11 his or her appointment, be [~~a citizen of the United States and either~~] a
12 resident of the state of New York or have an office or place of business
13 in New York state. A notary public who is a resident of the state and
14 who moves out of the state but still maintains a place of business or an
15 office in New York state does not vacate his or her office as a notary
16 public. A notary public who is a nonresident and who ceases to have an
17 office or place of business in this state, vacates his or her office as
18 a notary public. A notary public who is a resident of New York state and
19 moves out of the state and who does not retain an office or place of
20 business in this state shall vacate his or her office as a notary
21 public. A non-resident who accepts the office of notary public in this
22 state thereby appoints the secretary of state as the person upon whom
23 process can be served on his or her behalf. Before issuing to any appli-
24 cant a commission as notary public, unless he or she be an attorney and
25 counsellor at law duly admitted to practice in this state or a court
26 clerk of the unified court system who has been appointed to such posi-
27 tion after taking a civil service promotional examination in the court
28 clerk series of titles, the secretary of state shall satisfy himself or
29 herself that the applicant is of good moral character, has the equiv-
30 alent of a common school education and is familiar with the duties and
31 responsibilities of a notary public; provided, however, that where a
32 notary public applies, before the expiration of his or her term, for
33 reappointment with the county clerk or where a person whose term as
34 notary public shall have expired applies within six months thereafter
35 for reappointment as a notary public with the county clerk, such quali-
36 fying requirements may be waived by the secretary of state, and further,
37 where an application for reappointment is filed with the county clerk
38 after the expiration of the aforementioned renewal period by a person
39 who failed or was unable to re-apply by reason of his or her induction
40 or enlistment in the armed forces of the United States, such qualifying
41 requirements may also be waived by the secretary of state, provided such
42 application for reappointment is made within a period of one year after
43 the military discharge of the applicant under conditions other than
44 dishonorable. In any case, the appointment or reappointment of any
45 applicant is in the discretion of the secretary of state. The secretary
46 of state may suspend or remove from office, for misconduct, any notary
47 public appointed by him or her but no such removal shall be made unless
48 the person who is sought to be removed shall have been served with a
49 copy of the charges against him or her and have an opportunity of being
50 heard. No person shall be appointed as a notary public under this arti-
51 cle who has been convicted, in this state or any other state or territo-
52 ry, of a crime, unless the secretary makes a finding in conformance with
53 all applicable statutory requirements, including those contained in
54 article twenty-three-A of the correction law, that such convictions do
55 not constitute a bar to appointment.

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

1. The secretary of state may appoint and commission as many notaries public for the state of New York as in his or her judgment may be deemed best, whose jurisdiction shall be co-extensive with the boundaries of the state. The appointment of a notary public shall be for a term of four years. An application for an appointment as notary public shall be in form and set forth such matters as the secretary of state shall prescribe. Every person appointed as notary public must, at the time of his or her appointment, be ~~[a citizen of the United States and either]~~ a resident of the state of New York or have an office or place of business in New York state. A notary public who is a resident of the state and who moves out of the state but still maintains a place of business or an office in New York state does not vacate his or her office as a notary public. A notary public who is a nonresident and who ceases to have an office or place of business in this state, vacates his or her office as a notary public. A notary public who is a resident of New York state and moves out of the state and who does not retain an office or place of business in this state shall vacate his or her office as a notary public. A non-resident who accepts the office of notary public in this state thereby appoints the secretary of state as the person upon whom process can be served on his or her behalf. Before issuing to any applicant a commission as notary public, unless he or she be an attorney and counsellor at law duly admitted to practice in this state or a court clerk of the unified court system who has been appointed to such position after taking a civil service promotional examination in the court clerk series of titles, the secretary of state shall satisfy himself or herself that the applicant is of good moral character, has the equivalent of a common school education and is familiar with the duties and responsibilities of a notary public; provided, however, that where a notary public applies, before the expiration of his or her term, for reappointment with the county clerk or where a person whose term as notary public shall have expired applies within six months thereafter for reappointment as a notary public with the county clerk, such qualifying requirements may be waived by the secretary of state, and further, where an application for reappointment is filed with the county clerk after the expiration of the aforementioned renewal period by a person who failed or was unable to re-apply by reason of his or her induction or enlistment in the armed forces of the United States, such qualifying requirements may also be waived by the secretary of state, provided such application for reappointment is made within a period of one year after the military discharge of the applicant under conditions other than dishonorable, or if the applicant has a qualifying condition, as defined in section three hundred fifty of this chapter, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service, or if the applicant is a discharged LGBT veteran, as defined in section three hundred fifty of this chapter, within a period of one year after the applicant has received a discharge other than bad conduct or dishonorable from such service. In any case, the appointment or reappointment of any applicant is in the discretion of the secretary of state. The secretary of state may suspend or remove from office, for misconduct, any notary public appointed by him or her but no such removal shall be made unless the person who is sought to be removed shall have been served with a copy of the charges against him or her and have an opportunity of being heard. No person shall be appointed as a notary public under this article who has been convicted,

1 in this state or any other state or territory, of a crime, unless the
2 secretary makes a finding in conformance with all applicable statutory
3 requirements, including those contained in article twenty-three-A of the
4 correction law, that such convictions do not constitute a bar to
5 appointment.

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

9 § 440-a. License required for real estate brokers and salesmen. No
10 person, co-partnership, limited liability company or corporation shall
11 engage in or follow the business or occupation of, or hold himself or
12 itself out or act temporarily or otherwise as a real estate broker or
13 real estate salesman in this state without first procuring a license
14 therefor as provided in this article. No person shall be entitled to a
15 license as a real estate broker under this article, either as an indi-
16 vidual or as a member of a co-partnership, or as a member or manager of
17 a limited liability company or as an officer of a corporation, unless he
18 or she is twenty years of age or over[, ~~a citizen of the United States~~
19 ~~or an alien lawfully admitted for permanent residence in the United~~
20 ~~States~~]. No person shall be entitled to a license as a real estate
21 salesman under this article unless he or she is over the age of eighteen
22 years. No person shall be entitled to a license as a real estate broker
23 or real estate salesman under this article who has been convicted in
24 this state or elsewhere of a crime, unless the secretary makes a finding
25 in conformance with all applicable statutory requirements, including
26 those contained in article twenty-three-A of the correction law, that
27 such convictions do not constitute a bar to licensure. No person shall
28 be entitled to a license as a real estate broker or real estate salesman
29 under this article who does not meet the requirements of section 3-503
30 of the general obligations law.

31 Notwithstanding anything to the contrary in this section, tenant asso-
32 ciations and not-for-profit corporations authorized in writing by the
33 commissioner of the department of the city of New York charged with
34 enforcement of the housing maintenance code of such city to manage resi-
35 dential property owned by such city or appointed by a court of competent
36 jurisdiction to manage residential property owned by such city shall be
37 exempt from the licensing provisions of this section with respect to the
38 properties so managed.

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

42 1. If the applicant is a person, the application shall be subscribed
43 by such person, and if the applicant is a firm or partnership the appli-
44 cation shall be subscribed by each individual composing or intending to
45 compose such firm or partnership. The application shall state the full
46 name, age, residences within the past three years, present and previous
47 occupations of each person or individual so signing the same, [~~that each~~
48 ~~person or individual is a citizen of the United States or an alien~~
49 ~~lawfully admitted for permanent residence in the United States~~] and
50 shall also specify the name of the city, town or village, stating the
51 street and number, if the premises have a street and number, and other-
52 wise such apt description as will reasonably indicate the location ther-
53 eof, where is to be located the principal place of business and the
54 bureau, agency, sub-agency, office or branch office for which the
55 license is desired, and such further facts as may be required by the
56 department of state to show the good character, competency and integrity

1 of each person or individual so signing such application. Each person or
2 individual signing such application shall, together with such applica-
3 tion, submit to the department of state, his photograph, taken within
4 six months prior thereto in duplicate, in passport size and also two
5 sets of fingerprints of his two hands recorded in such manner as may be
6 specified by the secretary of state or the secretary of state's author-
7 ized representative. Before approving such application it shall be the
8 duty of the secretary of state or the secretary of state's authorized
9 representative to forward one copy of such fingerprints to the division
10 of criminal justice services. Upon receipt of such fingerprints, such
11 division shall forward to the secretary of state a report with respect
12 to the applicant's previous criminal history, if any, or a statement
13 that the applicant has no previous criminal history according to its
14 files. If additional copies of fingerprints are required the applicant
15 shall furnish them upon request. Such fingerprints may be submitted to
16 the federal bureau of investigation for a national criminal history
17 record check. The secretary shall reveal the name of the applicant to
18 the chief of police and the district attorney of the applicant's resi-
19 dence and of the proposed place of business and shall request of them a
20 report concerning the applicant's character in the event they shall have
21 information concerning it. The secretary shall take such other steps as
22 may be necessary to investigate the honesty, good character and integri-
23 ty of each applicant. Every such applicant for a license as private
24 investigator shall establish to the satisfaction of the secretary of
25 state (a) if the applicant be a person, or, (b) in the case of a firm,
26 limited liability company, partnership or corporation, at least one
27 member of such firm, partnership, limited liability company or corpo-
28 ration, has been regularly employed, for a period of not less than three
29 years, undertaking such investigations as those described as performed
30 by a private investigator in subdivision one of section seventy-one of
31 this article, as a sheriff, police officer in a city or county police
32 department, or the division of state police, investigator in an agency
33 of the state, county, or United States government, or employee of a
34 licensed private investigator, or has had an equivalent position and
35 experience or that such person or member was an employee of a police
36 department who rendered service therein as a police officer for not less
37 than twenty years or was an employee of a fire department who rendered
38 service therein as a fire marshal for not less than twenty years. Howev-
39 er, employment as a watchman, guard or private patrolman shall not be
40 considered employment as a "private investigator" for purposes of this
41 section. Every such applicant for a license as watch, guard or patrol
42 agency shall establish to the satisfaction of the secretary of state (a)
43 if the applicant be a person, or, (b) in the case of a firm, limited
44 liability company, partnership or corporation, at least one member of
45 such firm, partnership, limited liability company or corporation, has
46 been regularly employed, for a period of not less than two years,
47 performing such duties or providing such services as described as those
48 performed or furnished by a watch, guard or patrol agency in subdivision
49 two of section seventy-one of this article, as a sheriff, police officer
50 in a city or county police department, or employee of an agency of the
51 state, county or United States government, or licensed private investi-
52 gator or watch, guard or patrol agency, or has had an equivalent posi-
53 tion and experience; qualifying experience shall have been completed
54 within such period of time and at such time prior to the filing of the
55 application as shall be satisfactory to the secretary of state. The
56 person or member meeting the experience requirement under this subdivi-

1 sion and the person responsible for the operation and management of each
2 bureau, agency, sub-agency, office or branch office of the applicant
3 shall provide sufficient proof of having taken and passed a written
4 examination prescribed by the secretary of state to test their under-
5 standing of their rights, duties and powers as a private investigator
6 and/or watchman, guard or private patrolman, depending upon the work to
7 be performed under the license. In the case of an application subscribed
8 by a resident of the state of New York such application shall be
9 approved, as to each resident person or individual so signing the same,
10 but not less than five reputable citizens of the community in which such
11 applicant resides or transacts business, or in which it is proposed to
12 own, conduct, manage or maintain the bureau, agency, sub-agency, office
13 or branch office for which the license is desired, each of whom shall
14 subscribe and affirm as true, under the penalties of perjury, that he
15 has personally known the said person or individual for a period of at
16 least five years prior to the filing of such application, that he has
17 read such application and believes each of the statements made therein
18 to be true, that such person is honest, of good character and competent,
19 and not related or connected to the person so certifying by blood or
20 marriage. In the case of an application subscribed by a non-resident of
21 the state of New York such application shall be approved, as to each
22 non-resident person or individual so signing the same by not less than
23 five reputable citizens of the community in which such applicant
24 resides. The certificate of approval shall be signed by such reputable
25 citizens and duly verified and acknowledged by them before an officer
26 authorized to take oaths and acknowledgment of deeds. All provisions of
27 this section, applying to corporations, shall also apply to joint-stock
28 associations, except that each such joint-stock association shall file a
29 duly certified copy of its certificate of organization in the place of
30 the certified copy of its certificate of incorporation herein required.

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

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

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

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

42 ~~(c)]~~ The business or occupation engaged in for the three years imme-
43 diately preceding the date of the filing of the statement, setting forth
44 the place or places where such business or occupation was engaged in,
45 and the name or names of employers, if any.

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

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

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

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

55 § 7. This act shall take effect immediately; provided, however,
56 section two of this act shall take effect on the same date and in the

1 same manner as section 36 of chapter 490 of the laws of 2019, takes
2 effect.

3 PART W

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

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

11 § 2. This act shall take effect immediately and shall apply to appli-
12 cations for a license as a professional home inspector received on or
13 after November 25, 2019.

14 PART X

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

18 (e) If an instrument which is delivered to the department of state for
19 filing complies as to form with the requirements of law and there has
20 been attached to it the consent or approval of the state official,
21 department, board, agency or other body, if any, whose consent to or
22 approval of such instrument or the filing thereof is required by any
23 statute of this state and the filing fee and tax, if any, required by
24 any statute of this state in connection therewith have been paid, the
25 instrument shall be filed and indexed by the department of state. No
26 certificate of authentication or conformity or other proof shall be
27 required with respect to any verification, oath or acknowledgment of any
28 instrument delivered to the department of state under this chapter, if
29 such verification, oath or acknowledgment purports to have been made
30 before a notary public, or person performing the equivalent function, of
31 one of the states, or any subdivision thereof, of the United States or
32 the District of Columbia. Without limiting the effect of section four
33 hundred three of this chapter, filing and indexing by the department of
34 state shall not be deemed a finding that a certificate conforms to law,
35 nor shall it be deemed to constitute an approval by the department of
36 state of the name of the corporation or the contents of the certificate,
37 nor shall it be deemed to prevent any person with appropriate standing
38 from contesting the legality thereof in an appropriate forum. The
39 instrument's date of filing shall be the date the instrument was
40 received by the department of state for filing. An instrument that is
41 determined by the department of state to be unacceptable for filing
42 shall be returned to the person filing the instrument with an explana-
43 tion of the reason for the refusal to file. If the filer returns the
44 corrected instrument within thirty days from the date it was originally
45 received by the department of state and it is determined by the depart-
46 ment of state to be acceptable for filing, the instrument shall be filed
47 and indexed by the department of state and the filing date of the
48 instrument shall be the filing date that would have been applied had the
49 original instrument been acceptable for filing.

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

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

§ 408. Statement; filing.

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

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

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

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

(d) The number of directors constituting the board and how many directors of such board are women.

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

3. ~~[Except as provided in paragraph eight of this section, for]~~ For the purpose of this section the applicable filing period for a corporation shall be the calendar month during which its original certificate of incorporation or application for authority were filed or the effective date thereof if stated. The applicable filing period shall only occur: (a) annually, during the period starting on April 1, 1992 and ending on March 31, 1994; and (b) biennially, during a period starting on April 1 and ending on March 31 thereafter. Those corporations that filed between April 1, 1992 and June 30, 1994 shall not be required to file such statements again until such time as they would have filed, had this subdivision not been amended.

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

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

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

7. A domestic corporation or foreign corporation may amend its statement to change the information required by subparagraphs (a) and (b) of

paragraph one of this section. Such amendment shall be made on forms prescribed by the secretary of state. It shall be signed and delivered to the department of state. No fee shall be collected for the filing of the amendment.

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

~~(b) If the agreement described in subparagraph (a) of this paragraph is made, each corporation required to file the statement specified in paragraph one of this section that is also subject to tax under article nine or nine-A of the tax law shall include such statement annually on its tax report filed with the department of taxation and finance in lieu of filing a statement under this section with the department of state and in a manner prescribed by the commissioner of taxation and finance. However, each corporation 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 corporation in fact has filed a tax report with the department of taxation and finance that includes all required information. After that time, the corporation shall continue to deliver annually the statement specified in paragraph one of this section on its tax report in lieu of the biennial statement required by this section.~~

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

§ 4. Subdivision 4 of 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 or by this 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 certif-

icates 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

1 certificates filed pursuant to this article or of any judicial decree of
2 amendment or cancellation shall be delivered to the department of state.
3 If the instrument which is delivered to the department of state for
4 filing complies as to form with the requirements of law and the filing
5 fee required by any statute of this state in connection therewith has
6 been paid, the instrument shall be filed and indexed by the department
7 of state. The instrument's date of filing shall be the date the instru-
8 ment was received by the department of state for filing. An instrument
9 that is determined by the department of state to be unacceptable for
10 filing shall be returned to the person filing the instrument with an
11 explanation of the reason for the refusal to file. If the filer returns
12 the corrected instrument within thirty days from the date it was
13 originally received by the department of state and it is determined by
14 the department of state to be acceptable for filing, the instrument
15 shall be filed and indexed by the department of state and the filing
16 date of the instrument shall be the filing date that would have been
17 applied had the original instrument been acceptable for filing.

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

20 (e) If the signed registration or other instrument delivered to the
21 department of state for filing complies as to form with the requirements
22 of law and the filing fee required by any statute of this state has been
23 paid, the ~~[registration]~~ instrument shall be filed and indexed by the
24 department of state. The instrument's date of filing shall be the date
25 the instrument was received by the department of state for filing. An
26 instrument that is determined by the department of state to be unaccept-
27 able for filing shall be returned to the person filing the instrument
28 with an explanation of the reason for the refusal to file. If the filer
29 returns the corrected instrument within thirty days from the date it was
30 originally received by the department of state and it is determined by
31 the department of state to be acceptable for filing, the instrument
32 shall be filed and indexed by the department of state and the filing
33 date of the instrument shall be the filing date that would have been
34 applied had the original instrument been acceptable for filing.

35 § 12. Subdivision (g) of section 121-1500 of the partnership law, as
36 amended by section 8 of part S of chapter 59 of the laws of 2015, is
37 amended to read as follows:

38 (g) Each registered limited liability partnership shall, within sixty
39 days prior to the fifth anniversary of the effective date of its regis-
40 tration and every five years thereafter, furnish a statement to the
41 department of state setting forth: (i) the name of the registered limit-
42 ed liability partnership, (ii) the address of the principal office of
43 the registered limited liability partnership, (iii) the post office
44 address within or without this state to which the secretary of state
45 shall mail a copy of any process accepted against it served upon him or
46 her, which address shall supersede any previous address on file with the
47 department of state for this purpose, and (iv) a statement that it is
48 eligible to register as a registered limited liability partnership
49 pursuant to subdivision (a) of this section. The statement shall be
50 executed by one or more partners of the registered limited liability
51 partnership. ~~[The statement shall be accompanied by a fee of twenty~~
52 ~~dollars if submitted directly to the department of state. The commis-~~
53 ~~sioner of taxation and finance and the secretary of state may agree to~~
54 ~~allow registered limited liability partnerships to provide the statement~~
55 ~~specified in this subdivision on tax reports filed with the department~~
56 ~~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 partnership, make a proclamation declaring the registration of such registered limited liability partnership to be revoked pursuant to this subdivision. 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.

~~[This shall not apply to registered limited liability partnerships that have filed a statement with the department of state through the department of taxation and finance.]~~ Upon the publication of such proclamation

in the manner aforesaid, the registration of each registered limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings. Any registered limited liability partnership whose registration 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 registration of such registered limited liability partnership under this subdivision and (1) the registered 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 provisions of subdivision (b) of section twenty-six of this chapter to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the filing of the statement with

1 the department of state. If, after the publication of such proclamation,
2 it shall be determined by the department of state that the name of any
3 registered limited liability partnership was erroneously included in
4 such proclamation, the department of state shall make appropriate entry
5 on its records, which entry shall have the effect of annulling all of
6 the proceedings theretofore taken for the revocation of the registration
7 of such registered limited liability partnership under this subdivision
8 and (A) such registered limited liability partnership shall have such
9 powers, rights, duties and obligations as it had on the date of the
10 publication of the proclamation, with the same force and effect as if
11 such proclamation had not been made or published and (B) such publica-
12 tion shall not affect the applicability of the provisions of subdivision
13 (b) of section twenty-six of this chapter to any debt, obligation or
14 liability incurred, created or assumed from the date of publication of
15 the proclamation through the date of the making of the entry on the
16 records of the department of state. Whenever a registered limited
17 liability partnership whose registration was revoked shall have filed a
18 statement pursuant to this subdivision or if the name of a registered
19 limited liability partnership was erroneously included in a proclamation
20 and such proclamation was annulled, the department of state shall
21 publish a notice thereof in the state register.

22 § 13. Subdivision (d) of section 121-1502 of the partnership law, as
23 added by chapter 576 of the laws of 1994, is amended to read as follows:

24 (d) If a signed notice or other instrument delivered to the department
25 of state for filing complies as to form with the requirements of law and
26 the filing fee required by any statute of this state has been paid, the
27 ~~notice~~ instrument shall be filed and indexed by the department of
28 state. The instrument's date of filing shall be the date the instrument
29 was received by the department of state for filing. An instrument that
30 is determined by the department of state to be unacceptable for filing
31 shall be returned to the person filing the instrument with an explana-
32 tion of the reason for the refusal to file. If the filer returns the
33 corrected instrument within thirty days from the date it was originally
34 received by the department of state and it is determined by the depart-
35 ment of state to be acceptable for filing, the instrument shall be filed
36 and indexed by the department of state and the filing date of the
37 instrument shall be the filing date that would have been applied had the
38 original instrument been acceptable for filing. If a foreign limited
39 liability partnership that is a New York registered foreign limited
40 liability partnership dissolves, a foreign limited liability partnership
41 which is the successor to such New York registered foreign limited
42 liability partnership (i) shall not be required to file a new notice and
43 shall be deemed to have filed the notice filed by the New York regis-
44 tered foreign limited liability partnership pursuant to subdivision (a)
45 of this section, as well as any withdrawal notice filed pursuant to
46 subdivision (e) of this section, any statement or certificate of consent
47 filed pursuant to subdivision (f) of this section and any notice of
48 amendment filed pursuant to subdivision (i) of this section and (ii)
49 shall be bound by any revocation of status pursuant to subdivision (f)
50 of this section and any annulment thereof of the dissolved foreign
51 limited liability partnership that was a New York registered foreign
52 limited liability partnership. For purposes of this section, a foreign
53 limited liability partnership is a successor to a foreign limited
54 liability partnership that was a New York registered foreign limited
55 liability partnership if a majority of the total interests in the
56 current profits of such successor foreign limited liability partnership

1 are held by partners of the predecessor foreign limited liability part-
2 nership that was a New York registered foreign limited liability part-
3 nership who were partners of such predecessor partnership immediately
4 prior to the dissolution of such predecessor partnership.

5 § 14. Paragraph (I) of subdivision (f) of section 121-1502 of the
6 partnership law, as amended by section 9 of part S of chapter 59 of the
7 laws of 2015, is amended to read as follows:

8 (I) Each New York registered foreign limited liability partnership
9 shall, within sixty days prior to the fifth anniversary of the effective
10 date of its notice and every five years thereafter, furnish a statement
11 to the department of state setting forth:

12 (i) the name under which the New York registered foreign limited
13 liability partnership is carrying on or conducting or transacting busi-
14 ness or activities in this state, (ii) the address of the principal
15 office of the New York registered foreign limited liability partnership,
16 (iii) the post office address within or without this state to which the
17 secretary of state shall mail a copy of any process accepted against it
18 served upon him or her, which address shall supersede any previous
19 address on file with the department of state for this purpose, and (iv)
20 a statement that it is a foreign limited liability partnership. The
21 statement shall be executed by one or more partners of the New York
22 registered foreign limited liability partnership. ~~[The statement shall
23 be accompanied by a fee of fifty dollars if submitted directly to the
24 department of state. The commissioner of taxation and finance and the
25 secretary of state may agree to allow New York registered foreign limit-
26 ed liability partnerships to provide the statement specified in this
27 paragraph on tax reports filed with the department of taxation and
28 finance in lieu of statements filed directly with the secretary of state
29 and in a manner prescribed by the commissioner of taxation and finance.
30 If this agreement is made, starting with taxable years beginning on or
31 after January first, two thousand sixteen, each New York registered
32 foreign limited liability partnership required to file the statement
33 specified in this paragraph that is subject to the filing fee imposed by
34 paragraph three of subsection (c) of section six hundred fifty-eight of
35 the tax law shall provide such statement annually on its filing fee
36 payment form filed with the department of taxation and finance in lieu
37 of filing a statement under this paragraph directly with the department
38 of state. However, each New York registered foreign limited liability
39 partnership required to file a statement under this section must contin-
40 ue to file a statement with the department of state as required by this
41 section until the New York registered foreign limited liability partner-
42 ship in fact has filed a filing fee payment form with the department of
43 taxation and finance that includes all required information. After that
44 time, the New York registered foreign limited liability partnership
45 shall continue to provide annually the statement specified in this para-
46 graph on its filing fee payment form in lieu of filing the statement
47 required by this paragraph directly with the department of state. The
48 commissioner of taxation and finance shall deliver the completed state-
49 ment specified in this paragraph to the department of state for filing.
50 The department of taxation and finance must, to the extent feasible,
51 also include in such delivery the current name of the New York regis-
52 tered foreign limited liability partnership, department of state iden-
53 tification number for such New York registered foreign limited liability
54 partnership, the name, signature and capacity of the signer of the
55 statement, name and street address of the filer of the statement, and
56 the email address, if any, of the filer of the statement.] No fee shall~~

1 be collected for the filing of the statement. If a New York registered
2 foreign limited liability partnership shall not timely file the state-
3 ment required by this subdivision, the department of state may, upon
4 sixty days' notice mailed to the address of such New York registered
5 foreign limited liability partnership as shown in the last notice or
6 statement or certificate of amendment filed by such New York registered
7 foreign limited liability partnership, make a proclamation declaring the
8 status of such New York registered foreign limited liability partnership
9 to be revoked pursuant to this subdivision. [~~This shall not apply to New~~
10 ~~York registered foreign limited liability partnerships that have filed a~~
11 ~~statement with the department of state through the department of taxa-~~
12 ~~tion and finance.~~] The department of state shall file the original proc-
13 lamation in its office and shall publish a copy thereof in the state
14 register no later than three months following the date of such proclama-
15 tion. Upon the publication of such proclamation in the manner aforesaid,
16 the status of each New York registered foreign limited liability part-
17 nership named in such proclamation shall be deemed revoked without
18 further legal proceedings. Any New York registered foreign limited
19 liability partnership whose status was so revoked may file in the
20 department of state a statement required by this subdivision. The filing
21 of such statement shall have the effect of annulling all of the
22 proceedings theretofore taken for the revocation of the status of such
23 New York registered foreign limited liability partnership under this
24 subdivision and (1) the New York registered foreign limited liability
25 partnership shall thereupon have such powers, rights, duties and obli-
26 gations as it had on the date of the publication of the proclamation,
27 with the same force and effect as if such proclamation had not been made
28 or published and (2) such publication shall not affect the applicability
29 of the laws of the jurisdiction governing the agreement under which such
30 New York registered foreign limited liability partnership is operating
31 (including laws governing the liability of partners) to any debt, obli-
32 gation or liability incurred, created or assumed from the date of publi-
33 cation of the proclamation through the date of the filing of the state-
34 ment with the department of state. If, after the publication of such
35 proclamation, it shall be determined by the department of state that the
36 name of any New York registered foreign limited liability partnership
37 was erroneously included in such proclamation, the department of state
38 shall make appropriate entry on its records, which entry shall have the
39 effect of annulling all of the proceedings theretofore taken for the
40 revocation of the status of such New York registered foreign limited
41 liability partnership under this subdivision and (1) such New York
42 registered foreign limited liability partnership shall have such powers,
43 rights, duties and obligations as it had on the date of the publication
44 of the proclamation, with the same force and effect as if such proclama-
45 tion had not been made or published and (2) such publication shall not
46 affect the applicability of the laws of the jurisdiction governing the
47 agreement under which such New York registered foreign limited liability
48 partnership is operating (including laws governing the liability of
49 partners) to any debt, obligation or liability incurred, created or
50 assumed from the date of publication of the proclamation through the
51 date of the making of the entry on the records of the department of
52 state. Whenever a New York registered foreign limited liability partner-
53 ship whose status was revoked shall have filed a statement pursuant to
54 this subdivision or if the name of a New York registered foreign limited
55 liability partnership was erroneously included in a proclamation and

1 such proclamation was annulled, the department of state shall publish a
2 notice thereof in the state register.

3 § 15. Subdivision 5 of section 192 of the tax law is REPEALED.

4 § 16. Subdivision 15 of section 211 of the tax law is REPEALED.

5 § 17. Subparagraph (e) of paragraph 3 of subsection (c) of section 658
6 of the tax law is REPEALED.

7 § 18. Subsection (v) of section 1085 of the tax law is REPEALED.

8 § 19. Subsection (dd) of section 685 of the tax law is REPEALED.

9 § 20. This act shall become effective upon the development of a new
10 computerized filing system currently being developed by the department
11 of state; provided further, however, that the secretary of state shall
12 notify the legislative bill drafting commission upon the occurrence of
13 the development of a new computerized filing system being developed by
14 the department of state in order that the commission may maintain an
15 accurate and timely effective data base of the official text of the laws
16 of the state of New York in furtherance of effectuating the provisions
17 of section 44 of the legislative law and section 70-b of the public
18 officers law; and provided, however, sections two, three, four, six,
19 seven, eight, twelve, fourteen, fifteen, sixteen, seventeen, eighteen
20 and nineteen of this act shall take effect April 1, 2021.

21 PART Y

22 Section 1. Expenditures of moneys appropriated in a chapter of the
23 laws of 2020 to the department of agriculture and markets from the
24 special revenue funds-other/state operations, miscellaneous special
25 revenue fund-339, public service account shall be subject to the
26 provisions of this section. Notwithstanding any other provision of law
27 to the contrary, direct and indirect expenses relating to the department
28 of agriculture and markets' participation in general ratemaking
29 proceedings pursuant to section 65 of the public service law or certif-
30 ication proceedings pursuant to article 7 or 10 of the public service
31 law, shall be deemed expenses of the department of public service within
32 the meaning of section 18-a of the public service law. No later than
33 August 15, 2021, the commissioner of the department of agriculture and
34 markets shall submit an accounting of such expenses, including, but not
35 limited to, expenses in the 2020--2021 state fiscal year for personal
36 and non-personal services and fringe benefits, to the chair of the
37 public service commission for the chair's review pursuant to the
38 provisions of section 18-a of the public service law.

39 § 2. Expenditures of moneys appropriated in a chapter of the laws of
40 2020 to the department of state from the special revenue funds-
41 other/state operations, miscellaneous special revenue fund-339, public
42 service account shall be subject to the provisions of this section.
43 Notwithstanding any other provision of law to the contrary, direct and
44 indirect expenses relating to the activities of the department of
45 state's utility intervention unit pursuant to subdivision 4 of section
46 94-a of the executive law, including, but not limited to participation
47 in general ratemaking proceedings pursuant to section 65 of the public
48 service law or certification proceedings pursuant to article 7 or 10 of
49 the public service law, shall be deemed expenses of the department of
50 public service within the meaning of section 18-a of the public service
51 law. No later than August 15, 2021, the secretary of state shall submit
52 an accounting of such expenses, including, but not limited to, expenses
53 in the 2020--2021 state fiscal year for personal and non-personal
54 services and fringe benefits, to the chair of the public service commis-

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

3 § 3. Expenditures of moneys appropriated in a chapter of the laws of
4 2020 to the office of parks, recreation and historic preservation from
5 the special revenue funds-other/state operations, miscellaneous special
6 revenue fund-339, public service account shall be subject to the
7 provisions of this section. Notwithstanding any other provision of law
8 to the contrary, direct and indirect expenses relating to the office of
9 parks, recreation and historic preservation's participation in general
10 ratemaking proceedings pursuant to section 65 of the public service law
11 or certification proceedings pursuant to article 7 or 10 of the public
12 service law, shall be deemed expenses of the department of public
13 service within the meaning of section 18-a of the public service law. No
14 later than August 15, 2021, the commissioner of the office of parks,
15 recreation and historic preservation shall submit an accounting of such
16 expenses, including, but not limited to, expenses in the 2020--2021
17 state fiscal year for personal and non-personal services and fringe
18 benefits, to the chair of the public service commission for the chair's
19 review pursuant to the provisions of section 18-a of the public service
20 law.

21 § 4. Expenditures of moneys appropriated in a chapter of the laws of
22 2020 to the department of environmental conservation from the special
23 revenue funds-other/state operations, environmental conservation special
24 revenue fund-301, utility environmental regulation account shall be
25 subject to the provisions of this section. Notwithstanding any other
26 provision of law to the contrary, direct and indirect expenses relating
27 to the department of environmental conservation's participation in state
28 energy policy proceedings, or certification proceedings pursuant to
29 article 7 or 10 of the public service law, shall be deemed expenses of
30 the department of public service within the meaning of section 18-a of
31 the public service law. No later than August 15, 2021, the commissioner
32 of the department of environmental conservation shall submit an account-
33 ing of such expenses, including, but not limited to, expenses in the
34 2020--2021 state fiscal year for personal and non-personal services and
35 fringe benefits, to the chair of the public service commission for the
36 chair's review pursuant to the provisions of section 18-a of the public
37 service law.

38 § 5. Notwithstanding any other law, rule or regulation to the contra-
39 ry, expenses of the department of health public service education
40 program incurred pursuant to appropriations from the cable television
41 account of the state miscellaneous special revenue funds shall be deemed
42 expenses of the department of public service. No later than August 15,
43 2021, the commissioner of the department of health shall submit an
44 accounting of expenses in the 2020--2021 state fiscal year to the chair
45 of the public service commission for the chair's review pursuant to the
46 provisions of section 217 of the public service law.

47 § 6. Any expense deemed to be expenses of the department of public
48 service pursuant to sections one through four of this act shall not be
49 recovered through assessments imposed upon telephone corporations as
50 defined in subdivision 17 of section 2 of the public service law.

51 § 7. This act shall take effect immediately and shall be deemed to
52 have been in full force and effect on and after April 1, 2020.

1 Section 1. Section 25-a of the public service law, as added by section
2 of part X of chapter 57 of the laws of 2013, is amended to read as
3 follows:

4 § 25-a. Combination gas and electric corporations; administrative
5 sanctions; recovery of penalties. Notwithstanding sections twenty-four
6 and twenty-five of this article: 1. Every combination gas and electric
7 corporation and the officers thereof shall adhere to every provision of
8 this chapter and every order or regulation adopted under authority of
9 this chapter so long as the same shall be in force.

10 2. (a) The commission shall have the authority to assess a civil
11 penalty in an amount as set forth in this section and impose any other
12 required relief against a combination gas and electric corporation and
13 the officers thereof subject to the jurisdiction, supervision, or regu-
14 lation pursuant to this chapter [~~in an amount as set forth in this~~
15 ~~section~~]. In determining the amount of any penalty to be assessed pursu-
16 ant to this section, the commission shall consider: (i) the seriousness
17 of the violation for which a penalty is sought; (ii) the nature and
18 extent of any previous violations for which penalties have been assessed
19 against the corporation or officer; (iii) whether there was knowledge of
20 the violation; (iv) the gross revenues and financial status of the
21 corporation; and (v) such other factors as the commission may deem
22 appropriate and relevant. The remedies provided by this subdivision are
23 in addition to any other remedies provided in law or equity.

24 (b) [~~Whenever the commission has reason to believe that a combination~~
25 ~~gas and electric corporation or such officers thereof should be subject~~
26 ~~to imposition of a civil penalty as set forth in this subdivision, it~~
27 ~~shall notify such corporation or officer.~~] To inform the commission's
28 decision under this section, the department is authorized, pursuant to a
29 referral made by the chief executive officer of the department, to
30 commence a proceeding pursuant to this section upon issuance of a notice
31 of violation if it believes that a combination gas and electric corpo-
32 ration, or such officers thereof, may be subject to imposition of a
33 civil penalty as set forth in this subdivision and/or such other relief
34 as may be required to address such alleged violation. Such notice shall
35 include, but shall not be limited to: (i) the date and a brief
36 description of the facts and nature of each act or failure to act for
37 which such penalty is proposed; (ii) a list of each statute, regulation
38 or order that the [~~commission~~] department alleges has been violated;
39 [~~and~~] (iii) the amount of each penalty that the [~~commission~~] department
40 proposes [~~to assess~~] be assessed; and (iv) any proposed actions that the
41 department deems necessary to address such alleged violation or
42 violations. To further inform the commission's decision pursuant to this
43 subdivision, the department is authorized to undertake any additional
44 administrative or investigatory actions related to such violation or
45 violations, including but not limited to, service of an administrative
46 complaint, implementation of discovery, and the holding of evidentiary
47 hearings.

48 (c) [~~Whenever the commission has reason to believe that a combination~~
49 ~~gas and electric corporation or such officers thereof should be subject~~
50 ~~to imposition of a civil penalty or penalties as set forth in this~~
51 ~~subdivision, the commission shall hold a hearing to demonstrate why the~~
52 ~~proposed penalty or penalties should be assessed against such combina-~~
53 ~~tion gas and electric corporation or such officers~~] Any assessment of
54 penalties, resolution of claims or imposition of other relief levied by
55 the department pursuant to an investigation or compliant proceeding

1 commenced pursuant to paragraph (b) of this subdivision shall be subject
2 to review and approval by the commission.

3 3. Any combination gas and electric corporation determined by the
4 commission to have failed to [~~reasonably~~] comply, as shown by a prepon-
5 derance of the evidence, with a provision of this chapter, regulation or
6 an order adopted under authority of this chapter so long as the same
7 shall be in force shall forfeit a sum not exceeding the greater of one
8 hundred thousand dollars or two one-hundredths of one percent of the
9 annual intrastate gross operating revenue of the corporation, not
10 including taxes paid to and revenues collected on behalf of government
11 entities, constituting a civil penalty for each and every offense and,
12 in the case of a continuing violation, each day shall be deemed a sepa-
13 rate and distinct offense.

14 4. Notwithstanding the provisions of subdivision three of this
15 section, any such combination gas and electric corporation determined by
16 the commission to have failed to [~~reasonably~~] comply with a provision of
17 this chapter, or an order or regulation adopted under the authority of
18 this chapter specifically for the protection of human safety or
19 prevention of significant damage to real property, including, but not
20 limited to, the commission's code of gas safety regulations shall, if it
21 is determined by the commission by a preponderance of the evidence that
22 such safety violation caused or constituted a contributing factor in
23 bringing about: (a) a death or personal injury; or (b) damage to real
24 property in excess of fifty thousand dollars, forfeit a sum not to
25 exceed the greater of:

26 (i) two hundred fifty thousand dollars or three one-hundredths of one
27 percent of the annual intrastate gross operating revenue of the corpo-
28 ration, not including taxes paid to and revenues collected on behalf of
29 government entities, whichever is greater, constituting a civil penalty
30 for each separate and distinct offense; provided, however, that for
31 purposes of this paragraph, each day of a continuing violation shall not
32 be deemed a separate and distinct offense. The total period of a contin-
33 uing violation, as well as every distinct violation, shall be similarly
34 treated as a separate and distinct offense for purposes of this para-
35 graph; or

36 (ii) the maximum forfeiture determined in accordance with subdivision
37 three of this section.

38 5. Notwithstanding the provisions of subdivision three or four of this
39 section, a combination gas and electric corporation determined by the
40 commission to have failed to [~~reasonably~~] comply by a preponderance of
41 the evidence with a provision of this chapter, or an order or regulation
42 adopted under authority of this chapter, designed to protect the overall
43 reliability and continuity of electric service, including but not limit-
44 ed to the restoration of electric service following a major outage event
45 or emergency, shall forfeit a sum not to exceed the greater of:

46 (a) five hundred thousand dollars or four one-hundredths of one
47 percent of the annual intrastate gross operating revenue of the corpo-
48 ration, not including taxes paid to and revenues collected on behalf of
49 government entities, whichever is greater, constituting a civil penalty
50 for each separate and distinct offense; provided, however, that for
51 purposes of this paragraph each day of a continuing violation shall not
52 be deemed a separate and distinct offense. The total period of a contin-
53 uing violation, as well as every distinct violation shall be similarly
54 treated as a separate and distinct offense for purposes of this para-
55 graph; or

1 (b) the maximum forfeiture determined in accordance with subdivision
2 three of this section.

3 6. Any officer of any combination gas and electric corporation deter-
4 mined by the commission to have violated the provisions of subdivision
5 three, four, or five of this section, and who knowingly violates a
6 provision of this chapter, regulation or an order adopted under authori-
7 ty of this chapter so long as the same shall be in force shall forfeit a
8 sum not to exceed one hundred thousand dollars constituting a civil
9 penalty for each and every offense and, in the case of a continuing
10 violation, each day shall be deemed a separate and distinct offense.

11 7. ~~Any such assessment may be compromised or discontinued by the~~
12 ~~commission.~~ All moneys recovered pursuant to this section, together
13 with the costs thereof, shall be remitted to, or for the benefit of, the
14 ratepayers in a manner to be determined by the commission.

15 8. Upon a failure by a combination gas and electric corporation or
16 officer to remit any penalty assessed by the commission pursuant to this
17 section, the commission, through its counsel, may institute an action or
18 special proceeding to collect the penalty in a court of competent juris-
19 diction.

20 9. Any payment made by a combination gas and electric corporation or
21 the officers thereof as a result of an assessment as provided in this
22 section, and the cost of litigation and investigation related to any
23 such assessment, shall not be recoverable from ratepayers.

24 10. In construing and enforcing the provisions of this chapter relat-
25 ing to penalties, the act of any director, officer, agent or employee of
26 a combined gas and electric corporation acting within the scope of his
27 or her official duties or employment shall be deemed to be the act of
28 such corporation.

29 11. It shall be a violation of this chapter should a director, officer
30 or employee of a public utility company, corporation, person acting in
31 his or her official duties or employment, or an agent acting on behalf
32 of an employer take retaliatory personnel action such as discharge,
33 suspension, demotion, penalization or discrimination against an employee
34 for reporting a violation of a provision of this chapter ~~of~~ or an
35 order or regulation adopted under the authority of this chapter, includ-
36 ing, but not limited to, those governing safe and adequate service,
37 protection of human safety or prevention of significant damage to real
38 property, including, but not limited to, the commission's code of gas
39 safety. Nothing in this subdivision shall be deemed to diminish the
40 rights, privileges or remedies of any employee under any other law or
41 regulation, including but not limited to article twenty-C of the labor
42 law and section seventy-five-b of the civil service law, or under any
43 collective bargaining agreement or employment contract.

44 § 2. The public service law is amended by adding a new section 25-b to
45 read as follows:

46 § 25-b. Administrative actions against other regulated entities.
47 Notwithstanding any other provision of this chapter, section twenty-
48 five-a of this article shall apply in equal force to: (1) an electric
49 corporation as defined in subdivision thirteen of section two of this
50 chapter; (2) a gas corporation as defined in subdivision eleven of
51 section two of this chapter; (3) a cable television company or cable
52 television system as defined in subdivisions one and two of section two
53 hundred twelve of this chapter; (4) a telephone corporation as defined
54 in subdivision seventeen of section two of this chapter; (5) a steam
55 corporation as defined in subdivision twenty-two of section two of this

chapter; and (6) a water-works corporation as defined in subdivision twenty-seven of section two of this chapter.

§ 3. This act shall take effect immediately.

PART AA

Section 1. The public service law is amended by adding a new article 12 to read as follows:

ARTICLE 12

PROVISIONS RELATING TO INTERNET SERVICE PROVIDERS

Section 250. Definitions.

251. Prohibitions.

252. Consumer notice of service practices.

253. Annual certification.

254. Administration and enforcement.

255. Severability.

§ 250. Definitions. For purposes of this article, the following terms shall have the following meanings:

1. "Application-agnostic" means not differentiating on the basis of source, destination, internet content, application, service, or device, or class of internet content, application, service, or device.

2. "Application-specific differential pricing" means charging different prices for internet traffic to customers on the basis of internet content, application, service, or device, or class of internet content, application, service, or device, but shall not include zero-rating.

3. "Broadband internet access service" means a mass-market retail service by wire or radio provided to customers in the state of New York that provides the capability to transmit data to, and receive data from, all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. "Broadband internet access service" shall also encompass any service provided to customers in the state of New York that provides a functional equivalent of such service or that is used to evade the protections set forth in this chapter.

4. "Class of internet content, application, service, or device" means internet content, or a group of internet applications, services, or devices, sharing a common characteristic, including, but not limited to, sharing the same source or destination, belonging to the same type of content, application, service, or device, using the same application or transport-layer protocol, or having similar technical characteristics, including, but not limited to, the size, sequencing, or timing of packets or sensitivity to delay.

5. "Content, applications, or services" means all internet traffic transmitted to or from end users of a broadband internet access service, including traffic that may not fit clearly into any of these categories.

6. "Edge provider" means any individual or entity that provides any content, application, or service over the internet, and any individual or entity that provides a device used for accessing any content, application, or service over the internet.

7. "End user" means any individual or entity that uses a broadband internet access service.

8. "Internet service provider" or "ISP" means a business that provides broadband internet access service to an individual, corporation, government, or other customer in the state of New York.

1 9. "ISP traffic exchange" means the exchange of internet traffic
2 destined for, or originating from, an internet service provider's end
3 users between the internet service provider's network and another indi-
4 vidual or entity.

5 10. "Mass market" means a service marketed and sold on a standardized
6 basis to residential customers, small businesses, and other end-use
7 customers, including, but not limited to, schools, institutions of high-
8 er learning and libraries.

9 11. "Mobile broadband internet access" means a broadband internet
10 access service that serves end users primarily using mobile stations.

11 12. "Network management practice" means a practice that has a primari-
12 ly technical network management justification.

13 13. "Reasonable network management practice" means a network manage-
14 ment practice that is primarily used for, and tailored to, achieving a
15 legitimate network management purpose, taking into account the partic-
16 ular network architecture and technology of the broadband internet
17 access service.

18 14. "Third-party paid prioritization" means the management of an
19 internet service provider's network to directly or indirectly favor some
20 traffic over other traffic, including the use of techniques such as
21 traffic shaping, prioritization, resource reservation, or other forms of
22 preferential traffic management, either:

23 (a) in exchange for consideration, monetary or otherwise, from a third
24 party; or

25 (b) to benefit an affiliated entity.

26 15. "Zero-rating" means exempting some internet traffic from a custom-
27 er's data usage limitation.

28 § 251. Prohibitions. 1. Notwithstanding any inconsistent provisions of
29 this chapter, it shall be unlawful for an ISP, in providing broadband
30 internet access service in the state, to engage in any of the following
31 activities:

32 (a) Blocking lawful content, applications, services, or non-harmful
33 devices, subject to reasonable network management practices.

34 (b) Throttling, altering, restricting, interfering with, or otherwise
35 directly or indirectly favoring, disadvantaging, or discriminating
36 between lawful internet traffic on the basis of source, destination,
37 internet content, application, or service, or use of a non-harmful
38 device, or of class of internet content, application, service, or non-
39 harmful device, subject to reasonable network management practices.

40 (c) Engaging in third-party paid prioritization.

41 (d) Engaging in application-specific differential pricing or zero-rat-
42 ing in exchange for consideration, monetary or otherwise, by third
43 parties.

44 (e) Zero-rating some internet content, applications, services, or
45 devices in a category of internet content, applications, services, or
46 devices, but not the entire category.

47 (f) Engaging in application-specific differential pricing.

48 (g) Unreasonably interfering with, or unreasonably disadvantaging,
49 either an end user's ability to select, access, and use broadband inter-
50 net access service or lawful internet content, applications, services,
51 or devices of the end user's choice, subject to reasonable network
52 management practices.

53 (h) Engaging in practices with respect to, related to, or in
54 connection with ISP traffic exchange that has the purpose or effect of
55 circumventing or undermining the effectiveness of this section.

1 (i) Engaging in deceptive or misleading marketing practices that
2 misrepresent the treatment of internet traffic, content, applications,
3 service or devices by the internet service provider, or that misrepre-
4 sent the performance characteristics or commercial terms of the broad-
5 band internet access service to its customers.

6 (j) Advertising, offering for sale or selling broadband internet
7 access service without prominently disclosing with specificity all
8 aspects of the service advertised, offered for sale or sold.

9 (k) Failing to publicly disclose accurate information regarding the
10 network management practices, performance, and commercial terms of its
11 broadband internet access services sufficient for consumers to make
12 informed choices regarding use of those services and for content, appli-
13 cation, service and device providers to develop, market and maintain
14 internet offerings.

15 (l) Offering or providing services other than broadband internet
16 access service that are delivered over the same last-mile connection as
17 the broadband internet access service, if those services satisfy any of
18 the following conditions:

19 (i) such services are marketed, provide or can be used as a functional
20 equivalent of broadband internet access service;

21 (ii) such services have the purpose or effect of circumventing or
22 undermining the effectiveness of this section; or

23 (iii) such services negatively affect the performance of broadband
24 internet access service.

25 2. (a) An internet service provider may offer different types of tech-
26 anical treatment to end users as part of its broadband internet access
27 service, without violating the provisions of subdivision one of this
28 section, if all of the following conditions exist:

29 (i) the different types of technical treatment are equally available
30 to all internet content, applications, services and devices, and all
31 classes of internet content, applications, services and devices, and the
32 internet service provider does not discriminate in the provision of the
33 different types of technical treatment on the basis of internet content,
34 application, service or device, or class of internet content, applica-
35 tion, service or device;

36 (ii) the internet service provider's end users are able to choose
37 whether, when, and for which internet content, applications, services,
38 or devices, or classes of internet content, applications, services, or
39 devices, to use each type of technical treatment; and

40 (iii) the internet service provider charges only its own broadband
41 internet access service customers for the use of the different types of
42 technical treatment.

43 (b) Any internet service provider offering different types of techni-
44 cal treatment pursuant to this subdivision shall notify the department
45 and provide the department with a sample of any service contract that it
46 offers to customers in the state of New York.

47 3. An internet service provider may zero-rate internet traffic in
48 application-agnostic ways, without violating the provisions of subdivi-
49 sion one of this section, provided that no consideration, monetary or
50 otherwise, is provided by any third party in exchange for the provider's
51 decision to zero-rate or to not zero-rate traffic.

52 4. Nothing in this section prohibits an ISP from meeting an obligation
53 to address the needs of emergency communications or law enforcement,
54 public safety or national security authorities, consistent with or as
55 permitted by applicable law, or limits the ISP's ability to do so.

1 § 252. Consumer notice of service practices. An ISP providing broad-
2 band service in the state shall make publicly available an accurate
3 description of such ISP's network management practices, performance and
4 commercial terms of its broadband internet access service by posting
5 such description on an ISP controlled or maintained website, provided
6 that nothing in this section shall require ISPs to disclose confidential
7 business information or information that would compromise network secu-
8 rity.

9 § 253. Annual certification. Every ISP providing broadband service in
10 the state shall submit a certification to the department in a form and
11 manner specified by the commission, by July first, two thousand twenty-
12 one and annually thereafter. Such certification shall include, at a
13 minimum:

14 1. a statement indicating whether the ISP is in compliance with
15 sections two hundred fifty-one and two hundred fifty-two of this arti-
16 cle;

17 2. a description of such ISP's efforts in the preceding year to inform
18 end users of the provider's efforts to ensure net neutral service and
19 the address of the ISP's website where such information is provided; and

20 3. any other information required by rules promulgated by the depart-
21 ment and approved by the commission.

22 § 254. Administration and enforcement. 1. The commission shall be
23 authorized to promulgate any rules or regulations necessary to implement
24 the provisions of this article.

25 2. Violations of any duty imposed by this article shall be enforceable
26 by the commission. Any ISP that violates any provision of or fails to
27 perform any duty imposed pursuant to this article or any rule or regu-
28 lation promulgated pursuant thereto, or any final determination or order
29 of the commission made pursuant to this article shall be liable for a
30 civil penalty not to exceed five hundred dollars for each violation and
31 an additional penalty of not more than five hundred dollars for each day
32 during which such violation continues.

33 3. In addition to the authority granted to the commission pursuant to
34 this chapter, the attorney general may enforce the provisions of this
35 article to the extent permitted under section sixty-three of the execu-
36 tive law.

37 4. Nothing in this article shall preclude or prohibit any public or
38 private right of action relating to fraud or deceptive business prac-
39 tices.

40 § 255. Severability. The provisions of this article shall be severable
41 and if any phrase, clause, sentence or provision of this article, or the
42 applicability thereof to any person or circumstance shall be held inval-
43 id, the remainder of this article and the application thereof shall not
44 be affected thereby.

45 § 2. The state finance law is amended by adding a new section 169 to
46 read as follows:

47 § 169. Net neutrality. Each state agency shall enter into contracts
48 with only those internet service providers that have, by July first, two
49 thousand twenty-one, certified pursuant to section two hundred fifty-
50 three of the public service law that they are in compliance with
51 sections two hundred fifty-one and two hundred fifty-two of the public
52 service law. Each contract for internet services provided to a state
53 agency shall specifically require certification pursuant to section two
54 hundred fifty-three of the public service law and state that the inter-
55 net service provider may not block lawful content, applications,
56 services, non-harmful devices or applications that compete with other

1 services provided by such internet service provider. Any contract or
2 contract renewal entered into by a state agency shall include a binding
3 agreement consistent with the foregoing provisions, and no state agency
4 shall enter into a contract with an internet service provider, an agent
5 therefor or other entity offering to or procuring on behalf of the state
6 agency internet services unless such contract contains such a binding
7 agreement.

8 § 3. Subdivision 9 of section 160 of the state finance law, as amended
9 by chapter 106 of the laws of 2012, is amended to read as follows:

10 9. "State agency" or "state agencies" means all state departments,
11 boards, commissions, offices or institutions but excludes, however, for
12 the purposes of subdivision five of section three hundred fifty-five of
13 the education law, the state university of New York and excludes, for
14 the purposes of subdivision a of section sixty-two hundred eighteen of
15 the education law, the city university of New York; provided, however,
16 that the state university of New York and the city university of New
17 York shall be subject to the provisions of section one hundred sixty-
18 five-a and section one hundred sixty-nine of this article. Furthermore,
19 such term shall not include the legislature or the judiciary.

20 § 4. The public authorities law is amended by adding a new section
21 2878-c to read as follows:

22 § 2878-c. Net neutrality. After July first, two thousand twenty-one,
23 each state agency shall enter into contracts with only those internet
24 service providers that have, by such date, certified pursuant to section
25 two hundred fifty-three of the public service law that they are in
26 compliance with sections two hundred fifty-one and two hundred fifty-two
27 of the public service law. Each contract for internet services provided
28 to a state agency shall specifically require certification pursuant to
29 section two hundred fifty-three of the public service law and state that
30 the internet service provider may not block lawful content, applica-
31 tions, services, non-harmful devices or applications that compete with
32 other services provided by such internet service provider. Any contract
33 or contract renewal entered into by a state authority shall include a
34 binding agreement consistent with the foregoing provisions, and no state
35 authority shall enter into a contract with an internet service provider,
36 an agent therefor or other entity offering to or procuring on behalf of
37 the state authority internet services unless such contract contains such
38 a binding agreement.

39 § 5. Section 349 of the general business law is amended by adding a
40 new subdivision (k) to read as follows:

41 (k) In addition to the right of action granted to the attorney general
42 pursuant to this section, any person who has been injured by reason of
43 any violation of this section in relation to obligations imposed by
44 section two hundred fifty-one of the public service law may bring an
45 action to enjoin such unlawful act or practice, an action to recover
46 actual damages or five hundred dollars, whichever is greater, or both
47 such actions. The court may, in its discretion, increase the award of
48 damages to an amount not to exceed three times the actual damages if the
49 court finds the defendant willfully or knowingly violated this section.
50 The court may award reasonable attorneys' fees to a prevailing plain-
51 tiff.

52 § 6. This act shall take effect immediately.

1 Section 1. The general municipal law is amended by adding a new arti-
2 cle 13-E to read as follows:

3 ARTICLE 13-E

4 SMALL WIRELESS FACILITIES DEPLOYMENT

5 Section 300. Definitions.

6 301. Use of right of way for small wireless facilities and util-
7 ity poles.

8 302. Permitting process for small wireless facilities.

9 303. Access to municipal corporation poles within the right of
10 way.

11 304. Rates and fees.

12 305. Cable services.

13 306. Local authority.

14 307. Investor-owned electric utility poles.

15 308. Implementation.

16 309. Dispute resolution.

17 310. Indemnification, insurance, and bonding.

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

21 1. "Antenna" means communications equipment that transmits or receives
22 electromagnetic radio frequency signals used in the provision of wire-
23 less services.

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

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

30 4. "Application" means a request submitted by an applicant to a munic-
31 ipal corporation for a permit to collocate small wireless facilities; or
32 to approve the installation or modification of a utility pole or wire-
33 less support structure.

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

38 6. "Pole" means a utility pole owned, managed or operated by or on
39 behalf of a municipal corporation.

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

44 8. "Communications facility" means the set of equipment and network
45 components, including wires, cables, and associated facilities used by a
46 cable operator, as defined in 47 U.S.C. Section 522(5); a telecommuni-
47 cations carrier, as defined in 47 U.S.C. Section 153(51); a provider of
48 information service, as defined in 47 U.S.C. Section 153(24); a wireless
49 services provider to provide communications services, including cable
50 service, as defined in 47 U.S.C. Section 522(6); telecommunications
51 service, as defined in 47 U.S.C. Section 153(53); an information
52 service, as defined in 47 U.S.C. Section 153(24); wireless service; or
53 other one-way or two-way communications service.

54 9. "Communications service provider" means a cable operator, as
55 defined in 47 U.S.C. § 522(5); a provider of information service, as

1 defined in 47 U.S.C. § 153(24); a telecommunications carrier, as defined
2 in 47 U.S.C. § 153(51); or a wireless provider.

3 10. "Decorative pole" means a pole that is specially designed and
4 placed for aesthetic purposes and on which no appurtenances or attach-
5 ments, other than a small wireless facility, lighting, specially
6 designed informational or directional signage, or temporary holiday or
7 special event attachments, have been placed or are permitted to be
8 placed according to nondiscriminatory municipal rules or codes.

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

11 12. "Fee" means a one-time, nonrecurring charge.

12 13. "Historic district" means a group of buildings, properties, or
13 sites that are either: (a) listed in the National Register of Historic
14 Places or formally determined eligible for listing by the Keeper of the
15 National Register, in accordance with Section VI.D.1.a.i-v of the
16 Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix
17 C; or (b) a registered historic district as defined in section ninety-
18 six-a of this chapter or article five-K of this chapter as of the effec-
19 tive date of this section.

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

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

27 16. "Network interface device" means the telecommunications demarca-
28 tion and test point separating the wireless facility and the wireline
29 backhaul facility.

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

34 18. "Person" means an individual, corporation, limited liability
35 company, partnership, association, trust, or other entity or organiza-
36 tion, including a municipal corporation.

37 19. "Rate" means a recurring charge.

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

41 21. "Small wireless facility" means a wireless facility that meets
42 both of the following qualifications: (a) each wireless provider's
43 antenna could fit within an enclosure of no more than six cubic feet in
44 volume; and (b) all other wireless equipment associated with the wire-
45 less facility, whether ground or aerially mounted or attached to a util-
46 ity pole or wireless support structure, is cumulatively no more than
47 twenty-eight cubic feet in volume. The following types of associated
48 ancillary equipment are not included in the calculation of equipment
49 volume: electric meter, concealment elements, network interface device,
50 grounding equipment, power transfer switch, cut-off switch, converters,
51 amplifiers, splice cases, and vertical cable runs for the connection of
52 power and other services.

53 22. "Technically feasible" means that by virtue of engineering or
54 spectrum usage the proposed placement for a small wireless facility, or
55 its design, concealment measures, or site location can be implemented
56 without a reduction in the functionality of the small wireless facility.

1 23. "Utility pole" means a pole or similar structure that is or may be
2 used in whole or in part or for wireline communications, electric
3 distribution, lighting, traffic control, signage, or a similar function,
4 or for the collocation of small wireless facilities; provided, however,
5 such term shall not include wireless support structures or electric
6 transmission structures.

7 24. "Wireless facility" means equipment at a fixed location that
8 enables wireless services between user equipment and a communications
9 network, including: (a) equipment associated with wireless communi-
10 cations; (b) radio transceivers; (c) antennas; (d) coaxial or fiber-op-
11 tic cable located on a utility pole or wireless support structure, imme-
12 diately adjacent to the utility pole or wireless support structure, or
13 directly associated with equipment located on the utility pole or wire-
14 less support structure; and (e) regular and backup power supplies and
15 rectifiers; and comparable equipment, regardless of technological
16 configuration. The term includes small wireless facilities, but does not
17 include: (i) the structure or improvements on, under, or within which
18 the equipment is collocated; (ii) wireline backhaul facilities; or (iii)
19 coaxial or fiber-optic cable that is between wireless structures or
20 utility poles or that is otherwise not immediately adjacent to or
21 directly associated with a particular antenna.

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

27 26. "Wireless provider" means a wireless infrastructure provider or a
28 wireless services provider.

29 27. "Wireless services" means any services using licensed or unli-
30 censed spectrum including the use of Wi-Fi, whether at a fixed location
31 or mobile, provided to the public.

32 28. "Wireless services provider" means any person or entity that
33 provides wireless services.

34 29. "Wireless support structure" means a structure, such as a mono-
35 pole; tower, either guyed or self-supporting; billboard; building; or
36 other existing or proposed structure designed to support or capable of
37 supporting wireless facilities, other than a structure designed solely
38 for the collocation of small wireless facilities. Such term shall not
39 include a utility pole.

40 30. "Wireline backhaul facility" means an above-ground or underground
41 wireline facility used to transport communications data from a wireless
42 facility network interface device to a network.

43 § 301. Use of right of way for small wireless facilities and utility
44 poles. 1. Applicability. This section shall only apply to the activ-
45 ities of a wireless provider within the right of way to deploy small
46 wireless facilities and associated utility poles.

47 2. Exclusive use prohibited. A municipal corporation may not enter
48 into an exclusive arrangement with any person for use of the right of
49 way for the collocation of small wireless facilities or for the instal-
50 lation, operation, marketing, modification, maintenance or replacement
51 of utility poles.

52 3. Right of way rates and fees. A municipal corporation may only
53 charge a wireless provider a rate or fee for the use of the ROW with
54 respect to the collocation of small wireless facilities or the installa-
55 tion, maintenance, modification, operation, or replacement of a utility
56 pole in the right of way if the municipal corporation charges other

1 entities for use of the right of way. Notwithstanding the foregoing, a
2 municipal corporation is permitted, on a nondiscriminatory basis, to
3 refrain from charging any rate to a wireless provider for the use of the
4 right of way. The rate for use of the right of way is provided in
5 section three hundred four of this article.

6 4. Right of access. Subject to this section, a wireless provider shall
7 have the right, as a permitted use not subject to zoning review or
8 approval, to collocate small wireless facilities and to install, main-
9 tain, modify, operate and replace utility poles along, across, upon, and
10 under the right of way. Such structures and facilities shall be so
11 installed and maintained as not to obstruct or hinder the usual travel
12 or public safety on such right of way or obstruct the legal use of such
13 right of way by utilities.

14 5. Height limits. Each new or modified utility pole installed in the
15 right of way shall not exceed the greater of: (a) ten feet in height
16 above the tallest existing utility pole in place as of the effective
17 date of this article located within five hundred feet of the new pole in
18 the same municipal corporation's right of way; or (b) fifty feet above
19 ground level. New small wireless facilities in the right of way may not
20 extend: (i) more than ten feet above an existing utility pole in place
21 as of the effective date of this article; or (ii) for small wireless
22 facilities on a new utility pole, above the height permitted for a new
23 utility pole under this section. A wireless provider shall have the
24 right to collocate a small wireless facility and install, maintain,
25 modify, operate and replace a utility pole that exceeds these height
26 limits along, across, upon and under the right of way, subject to this
27 section and applicable zoning regulations.

28 6. Decorative poles. A wireless provider shall be permitted to collo-
29 cate on or replace decorative poles when necessary to deploy a small
30 wireless facility. A municipal corporation may require such collocation
31 or decorative pole replacement to reasonably conform to the design
32 aesthetics of the original decorative pole or poles, provided such
33 requirements are technically feasible.

34 7. Underground district. (a) A wireless provider shall comply with
35 written, objective, reasonable and nondiscriminatory requirements that
36 prohibit the installation of utility poles or wireless support struc-
37 tures in the right of way in an area designated solely for underground
38 communications and electric lines where: (i) the municipal corporation
39 has required all such lines to be placed underground no less than three
40 months prior to the submission of the application; (ii) utility poles
41 the municipal corporation allows to remain shall be made available to
42 wireless providers for the collocation of small wireless facilities, and
43 may be replaced by a wireless provider to accommodate the collocation of
44 small wireless facilities, in compliance with this article; and (iii) a
45 wireless provider may install a new utility pole in the designated area
46 that otherwise complies with this section when it is not able to provide
47 wireless service by collocating on a remaining utility pole or wireless
48 support structure.

49 (b) For small wireless facilities installed before a municipal corpo-
50 ration adopts requirements that communications and electric lines be
51 placed underground, such municipal corporation adopting such require-
52 ments shall: (i) permit a wireless provider to maintain the small wire-
53 less facilities in place subject to any applicable pole attachment
54 agreement with the utility pole owner; or (ii) permit the wireless
55 provider to replace the associated utility pole within fifty feet of the
56 prior location.

1 8. Historic district. Subject to subdivision four of section three
2 hundred two of this article, a municipal corporation may require writ-
3 ten, objective, reasonable, technically feasible, nondiscriminatory and
4 technologically neutral design or concealment measures in a historic
5 district. No such design or concealment measures may have the effect of
6 materially inhibiting any provider's technology or service; nor may any
7 such measures be considered a part of the small wireless facility for
8 purposes of the size restrictions in the definition of small wireless
9 facility.

10 9. No discrimination. The municipal corporation, in the exercise of
11 its administration and regulation related to the management of the right
12 of way, must be competitively neutral with regard to other users of the
13 right of way. The municipal corporation's right of way regulations may
14 not be unreasonable or discriminatory and may not violate any applicable
15 law.

16 10. Damage and repair. The municipal corporation may require a wire-
17 less provider to repair all damage to the right of way directly caused
18 by the activities of the wireless provider in the right of way and to
19 return the right of way to its functional equivalence before the damage
20 pursuant to the competitively neutral, reasonable requirements and spec-
21 ifications of the municipal corporation. If the wireless provider fails
22 to make the repairs reasonably required by the municipal corporation
23 within a reasonable time after written notice, the municipal corporation
24 may affect those repairs and charge the applicable party the reasonable,
25 documented actual cost of such repairs.

26 11. Pole replacements and modifications. A wireless provider shall not
27 be required to replace or upgrade an existing utility pole except for
28 reasons of structural necessity or compliance with applicable codes. A
29 wireless provider may, with the permission of the pole owner, replace or
30 modify existing utility poles, but any such replacement or modification
31 shall be consistent with the design aesthetics of the utility pole or
32 poles being modified or replaced.

33 12. Permitted use. New, modified or replacement utility poles associ-
34 ated with a small wireless facility that meet the requirements of this
35 section are permitted uses subject to the permit process in subdivision
36 four of section three hundred two of this article and are not subject to
37 zoning review or approval.

38 13. Abandonment. A wireless provider is required to notify the municipi-
39 pal corporation at least thirty days before its abandonment of a small
40 wireless facility. Following receipt of such notice, the municipal
41 corporation shall direct the wireless provider to remove all or any
42 portion of the small wireless facility that the municipal corporation
43 determines would be in the best interest of the public safety and public
44 welfare to remove. If the wireless provider fails to remove the aban-
45 doned facility within ninety days after such notice, the municipal
46 corporation may undertake to do so and recover the actual and reasonable
47 expenses of doing so from the wireless provider, its successors or
48 assigns.

49 § 302. Permitting process for small wireless facilities. 1. Applica-
50 bility. This section shall apply to the permitting of the collocation of
51 small wireless facilities by a wireless provider in or outside the right
52 of way as specified in subdivision three of this section and to the
53 permitting of the installation, modification, and replacement of associ-
54 ated utility poles by a wireless provider inside the right of way.

1 2. General. Except as provided in this article, a municipal corpo-
2 ration may not prohibit, regulate, or charge for the collocation of
3 small wireless facilities that may be permitted in this section.

4 3. Zoning. Small wireless facilities shall be classified as permitted
5 uses and not subject to zoning review or approval if they are collocated
6 in the right of way in any zone.

7 4. Permits. A municipal corporation may require an applicant to obtain
8 one or more permits to collocate a small wireless facility or to install
9 a new, modified or replacement utility pole associated with a small
10 wireless facility as provided in subdivision four of section three
11 hundred one of this article, provided such permits are of general appli-
12 cability and do not apply exclusively to wireless facilities. A munici-
13 pal corporation shall receive applications for, process, and issue such
14 permits subject to the following requirements:

15 (a) a municipal corporation may not directly or indirectly require an
16 applicant to perform services or provide goods unrelated to the permit,
17 such as in-kind contributions to the municipal corporation including,
18 but not limited to, reserving fiber, conduit, or pole space for the
19 municipal corporation;

20 (b) an applicant shall not be required to provide more information to
21 obtain a permit than communications service providers that are not wire-
22 less providers, provided that an applicant may be required to include
23 construction and engineering drawings and information demonstrating
24 compliance with the criteria in paragraph (g) of this subdivision;

25 (c) a municipal corporation may not require the collocation of small
26 wireless facilities on any specific utility pole or category of poles or
27 require multiple antenna systems on a single utility pole; the use of
28 specific pole types or configurations when installing new or replacement
29 poles; or the underground placements of small wireless facilities that
30 are or are designated in an application to be pole-mounted or ground-
31 mounted;

32 (d) a municipal corporation may not limit the collocation of small
33 wireless facilities by minimum horizontal separation distance require-
34 ments from existing small wireless facilities, utility poles, or other
35 structures;

36 (e) a municipal corporation may require an applicant to include an
37 attestation that the small wireless facilities will be operational for
38 use by a wireless services provider within one year after the permit
39 issuance date, unless the municipal corporation applicant agree to
40 extend this period or delay is caused by lack of commercial power or
41 communications transport facilities to the site;

42 (f) within ten days of receipt of an application, a municipal corpo-
43 ration must determine and notify the applicant in writing whether the
44 application is complete. If an application is deemed incomplete, the
45 municipal corporation must specifically identify the missing information
46 in writing. The processing deadline in paragraph (g) of this subdivision
47 is tolled from the time the authority sends the notice of incompleteness
48 to the time the applicant provides the missing information. Such proc-
49 essing deadline may also be tolled upon agreement of the applicant and
50 the municipal corporation;

51 (g) municipal corporations shall process applications on a nondiscri-
52 minatory basis and such applications shall be deemed approved if the
53 municipal corporation fails to approve or deny the application within
54 sixty days of receipt of the application;

55 (h) a municipal corporation may deny a proposed collocation of a small
56 wireless facility or installation, modification or replacement of a

1 utility pole that meets the requirements of subdivision five of section
2 three hundred one of this article only if the proposed application: (i)
3 materially interferes with the safe operation of traffic control equip-
4 ment; (ii) materially interferes with sight lines or clear zones for
5 transportation or pedestrians; (iii) materially interferes with compli-
6 ance with the Americans with Disabilities Act or similar federal or
7 state standards regarding pedestrian access or movement; (iv) fails to
8 comply with reasonable and nondiscriminatory horizontal spacing require-
9 ments of general application adopted by ordinance that concern the
10 location of ground-mounted equipment and new utility poles. Such spacing
11 requirements shall not prevent a wireless provider from serving any
12 location; (v) designates the location of a new utility pole for the
13 purpose of collocating a small wireless facility within seven feet in
14 any direction of an electrical conductor, unless the wireless provider
15 obtains the written consent of the power supplier that owns or manages
16 the electrical conductor; (vi) fails to comply with applicable codes; or
17 (vii) fails to comply with subdivision six, seven or eight of section
18 three hundred one of this article;

19 (i) the municipal corporation must document the basis for a denial,
20 including the specific code provisions on which the denial was based,
21 and send the documentation to the applicant on the day the authority
22 denies an application. The applicant may cure the deficiencies identi-
23 fied by the municipal corporation and resubmit the application within
24 thirty days of the denial without paying an additional application fee.
25 The municipal corporation shall approve or deny the revised application
26 within thirty days of resubmission and limit its review to the deficien-
27 cies cited in the denial. Any application not acted upon within thirty
28 days of resubmission shall be deemed approved;

29 (j) an applicant seeking to collocate small wireless facilities within
30 the jurisdiction of a single municipal corporation shall be allowed at
31 the applicant's discretion to file a consolidated application for up to
32 thirty small wireless facilities and receive a single permit for the
33 collocation of multiple small wireless facilities; provided, however,
34 the denial of one or more small wireless facilities in a consolidated
35 application shall not delay processing of any other small wireless
36 facilities in the same consolidated application. Solely for purposes of
37 calculating the number of small wireless facilities in a consolidated
38 application, a small wireless facility includes any utility pole on
39 which such small wireless facility will be collocated;

40 (k) installation or collocation for which a permit is granted pursuant
41 to this section shall be completed within one year after the permit
42 issuance date unless the municipal corporation and the applicant agree
43 to extend this period or a delay is caused by the lack of commercial
44 power or communications facilities at the site. Approval of an applica-
45 tion authorizes the applicant to: (i) undertake the installation or
46 collocation; and (ii) subject to applicable relocation requirements and
47 the applicant's right to terminate at any time, operate and maintain the
48 small wireless facilities and any associated utility pole covered by the
49 permit for a period of not less than ten years, which must be renewed
50 for equivalent durations so long as they are in compliance with the
51 criteria set forth in paragraph (g) of this subdivision;

52 (l) no municipal corporation may institute, either expressly or de
53 facto, a moratorium on: (i) filing, receiving, or processing applica-
54 tions; or (ii) issuing permits or other approvals, if any, for the
55 collocation of small wireless facilities or the installation, modifica-

tion, or replacement of utility poles to support small wireless facilities; and

(m) the approval of the installation, placement, or maintenance of a small wireless facility pursuant to this section does not authorize the installation, placement, maintenance, or operation of any other communications facility, including a wireline backhaul facility, in a right of way.

5. When applications not required. A municipal corporation shall not require an application for routine maintenance, the replacement of small wireless facilities with small wireless facilities that are substantially similar or the same size or smaller, or the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles, in compliance with the applicable codes. A municipal corporation may, however, require a permit for work that requires excavation or closure of sidewalks or vehicular lanes within the ROW for such activities. Such a permit must be issued to the applicant on a non-discriminatory basis upon terms and conditions applied to any other person's activities in the right of way that require excavation, closing of sidewalks, or vehicular lanes.

§ 303. Access to municipal corporation poles within the right of way. 1. Applicability. This section shall apply to activities of the wireless provider within the right of way.

2. Exclusive use prohibited. A person owning, managing, or controlling municipal corporation poles in the right of way may not enter into an exclusive arrangement with any person for the right to attach to such poles. A person who purchases or otherwise acquires a municipal corporation pole is subject to the requirements of this section.

3. Allowances. A municipal corporation shall allow the collocation of small wireless facilities on municipal corporation poles on nondiscriminatory terms and conditions using the process in section three hundred three of this article.

4. Rates. (a) The rates to collocate on municipal corporation poles shall be nondiscriminatory regardless of the services provided by the collocating wireless provider.

(b) The rate to collocate on municipal corporation poles is provided in section three hundred four of this article.

5. Implementation, make-ready work. (a) The rates, fees, and terms and conditions for the make-ready work to collocate on a municipal corporation pole must be nondiscriminatory, competitively neutral, and commercially reasonable and must comply with this article.

(b) The municipal corporation shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation by a wireless provider, including pole replacement if necessary, within sixty days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within sixty days of written acceptance of the good faith estimate by the applicant. A municipal corporation may require replacement of the municipal corporation's pole only if it demonstrates that the collocation would make such pole structurally unsound.

(c) The person owning, managing, or controlling the municipal corporation's pole shall not require more make-ready work than required to meet applicable codes or industry standards. Fees for make-ready work shall not include costs related to pre-existing or prior damage or noncompliance. Fees for make-ready work, including any pole replacement, shall not exceed either actual costs or the amount charged to other

1 communications service providers for similar work and shall not include
2 any revenue or contingency-based consultant's fees or expenses of any
3 kind.

4 § 304. Rates and fees. 1. Applicability. This section shall govern a
5 municipal corporation's rates and fees for the placement of a small
6 wireless facility or associated utility pole.

7 2. Permissible rates and fees. A municipal corporation may not require
8 a wireless provider to pay any rates, fees, or compensation to the
9 municipal corporation or other person other than what is expressly
10 authorized by this article for the right to use or occupy a right of
11 way, for collocation of small wireless facilities on utility poles in
12 the right of way, or for the installation, maintenance, modification,
13 operation and replacement of utility poles in the right of way.

14 3. Application fees. A municipal corporation may charge an application
15 fee, so long as such fee is reasonable, nondiscriminatory, and recovers
16 no more than an authority's direct costs for processing an application;
17 provided however, no such fee shall exceed the following: (a) five
18 hundred dollars for the first five small wireless facilities on the same
19 application and one hundred dollars for each additional small wireless
20 facility on the same application; and (b) one thousand dollars for the
21 installation, modification or replacement of a utility pole together
22 with the collocation of an associated small wireless facility that are
23 permitted uses in accordance with the specifications set forth in subdivi-
24 sion four of section three hundred two of this article.

25 4. Rates. (a) Right of way: a municipal corporation may charge for the
26 occupancy and use of the right of way, so long as such rate is reason-
27 able, nondiscriminatory, and does not exceed the greater of the authori-
28 ty's direct costs or twenty dollars per year per small wireless facili-
29 ty.

30 (b) Municipal corporation pole collocation rate: a municipal corpo-
31 ration may charge for collocation of a small wireless facility on a
32 municipal corporation pole, so long as such rate is reasonable, nondis-
33 criminatory, and does not exceed the greater of authority's direct costs
34 or two hundred fifty dollars per municipal corporation pole per year.

35 5. Rate or fee adjustment. Should a municipal corporation have an
36 existing rate or fee to construct, install, mount, maintain, modify,
37 operate, or replace a wireless facility or wireless support structure in
38 the right of way, including collocation in such right of way, controlled
39 by the municipal corporation and such rate or fee does not comply with
40 the requirements in this article, not later than the end of the next
41 fiscal year immediately succeeding the effective date of this article,
42 the municipal corporation shall implement a revised rate or fee to
43 ensure compliance with this article for all affected persons.

44 § 305. Cable services. This section applies to activities in the right
45 of way only. Nothing in this article shall be interpreted to allow any
46 entity to provide services regulated under 47 U.S.C. § 521 to 573 with-
47 out compliance with all laws applicable to such providers, nor shall
48 this article be interpreted to impose any new requirements on cable
49 providers for the provision of such service in this state.

50 § 306. Local authority. Subject to this article and applicable federal
51 law, a municipal corporation may continue to exercise zoning, land use,
52 planning and permitting authority within its territorial boundaries with
53 respect to wireless support structures and utility poles, including the
54 enforcement of applicable codes. A municipal corporation shall not have
55 or exercise any jurisdiction or authority over the design, engineering,
56 construction, installation, or operation of a small wireless facility

1 located in an interior structure or upon the site of a campus, stadium,
2 or athletic facility not owned or controlled by the municipal corpo-
3 ration, other than to require compliance with applicable codes. Nothing
4 in this article authorizes the state or any political subdivision,
5 including a municipal corporation, to require wireless facility deploy-
6 ment or to regulate wireless services.

7 § 307. Investor-owned electric utility poles. This article does not
8 apply to utility poles owned by an investor-owned utility, except as it
9 concerns a wireless provider's access to the right of way and permits
10 for the collocation of small wireless facilities on such utility poles.

11 § 308. Implementation. 1. Adoption. A municipal corporation may adopt
12 an ordinance that makes available to wireless providers rates, fees, and
13 other terms that comply with this article. Subject to the other
14 provisions of this section, in the absence of an ordinance or agreement
15 that fully complies with this article and until such a compliant ordi-
16 nance is adopted, if at all, a wireless provider may install and operate
17 small wireless facilities and associated utility poles under the
18 requirements of this article. A municipal corporation may not require a
19 wireless provider to enter into an agreement to implement this article,
20 but such agreements are permissible if voluntary and nondiscriminatory.

21 2. Ordinances and agreements. Ordinances and agreements implementing
22 this article are public/private arrangements and are matters of legiti-
23 mate and significant statewide concern.

24 3. Application. An agreement or ordinance that does not fully comply
25 with this article shall apply only to small wireless facilities and
26 associated utility poles that were operational before the effective date
27 of this article, and shall be deemed invalid and unenforceable beginning
28 on the one hundred eighty-first day after the effective date of this
29 article unless amended to fully comply with this article. If an agree-
30 ment or ordinance is invalid in accordance with this subdivision, small
31 wireless facilities and associated utility poles that became operational
32 before the effective date of this article, pursuant to such agreement or
33 ordinance, may remain installed and be operated under the requirements
34 of this article.

35 4. Invalid and unenforceable. An agreement or ordinance that applies
36 to small wireless facilities and associated utility poles that become
37 operational on or after the effective date of this article is invalid
38 and unenforceable unless it fully complies with this article. In the
39 absence of an ordinance or agreement that fully complies with this arti-
40 cle, a wireless provider may install and operate small wireless facili-
41 ties and associated utility poles in the right of way under the require-
42 ments of this article.

43 § 309. Dispute resolution. A court of competent jurisdiction shall
44 have jurisdiction to determine all disputes arising under this article.
45 Pending resolution of a dispute concerning rates for collocation of
46 small wireless facilities on municipal corporation poles, the person
47 owning or controlling the pole shall allow the collocating person to
48 collocate on its poles at annual rates of no more than twenty dollars
49 with rates to be trued up upon final resolution of the dispute.

50 § 310. Indemnification, insurance, and bonding. A municipal corpo-
51 ration may adopt reasonable indemnification, insurance and bonding
52 requirements related to small wireless facility and associated utility
53 pole permits subject to the requirements of this article.

54 1. Indemnification. A municipal corporation shall not require a wire-
55 less provider to indemnify and hold the municipal corporation and its
56 officers and employees harmless against any claims, lawsuits, judgments,

1 costs, liens, losses, expenses or fees, except when a court of competent
2 jurisdiction has found that the negligence of the wireless provider
3 while installing, repairing, or maintaining caused the harm that created
4 such claims, lawsuits, judgments, costs, liens, losses, expenses, or
5 fees.

6 2. Insurance. A municipal corporation authority may require a wireless
7 provider to have in effect insurance coverage consistent with subdivi-
8 sion one of this section, so long as the municipal corporation imposes
9 similar requirements on other right of way users and such requirements
10 are reasonable and nondiscriminatory. (a) A municipal corporation may
11 not require a wireless provider to obtain insurance naming the municipal
12 corporation or its officers and employees an additional insured.

13 (b) A municipal corporation authority may require a wireless provider
14 to furnish proof of insurance, if required, prior to the effective date
15 of any permit issued for a small wireless facility.

16 3. Bonding. A municipal corporation may adopt bonding requirements for
17 small wireless facilities if the municipal corporation imposes similar
18 requirements in connection with permits issued for other right of way
19 users.

20 (a) The purpose of such bonds shall be to:

21 (i) provide for the removal of abandoned or improperly maintained
22 small wireless facilities, including those that a municipal corporation
23 determines need to be removed to protect public health, safety, or
24 welfare; (ii) restoration of the right of way in connection with
25 removals under subdivision thirteen of section three hundred one of this
26 article; or (iii) to recoup rates or fees that have not been paid by a
27 wireless provider in over twelve months, so long as the wireless provid-
28 er has received reasonable notice from the municipal corporation of any
29 of the non-compliance listed above and an opportunity to cure.

30 (b) Bonding requirements may not exceed two hundred dollars per small
31 wireless facility. For wireless providers with multiple small wireless
32 facilities within the jurisdiction of a single municipal corporation,
33 the total bond amount across all facilities may not exceed ten thousand
34 dollars, which amount may be combined into one bond instrument.

35 § 2. The highway law is amended by adding a new section 24 to read as
36 follows:

37 24. Statewide master license agreement. The commissioner is hereby
38 authorized to enter into a statewide master license agreement with a
39 wireless provider for use and occupancy of the state right of way for
40 the purposes of installing communications facilities on utility or
41 department owned poles or new wireless provider owned poles. The commis-
42 sioner shall include elements in such an agreement he or she deems
43 appropriate to maintain the safety and effective management of state
44 roadways. Such statewide agreement may include a fee, not to exceed the
45 greater of the department's direct costs, or an amount set forth in the
46 agreement for use and occupancy of the right of way, per small wireless
47 facility as that term is defined in subdivision twenty-four of section
48 three hundred of the general municipal law. Nothing in this section
49 shall be deemed to prohibit the department from collecting any other fee
50 it has established for any other permit the department issues or any
51 other fee the department assesses any individual for any activity in the
52 department's normal course of business.

53 § 3. This act shall take effect on the thirtieth day after it shall
54 have become a law.

Section 1. Section 2 of chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, as amended by section 1 of part X of chapter 58 of the laws of 2018, is amended to read as follows:

§ 2. This act shall take effect immediately and shall expire and be deemed repealed on July 1, ~~2020~~ 2024; provided however, that the expiration of this act shall not impair or otherwise affect any of the powers, duties, responsibilities, functions, rights or liabilities of any subsidiary duly created pursuant to subdivision twenty-five of section 1678 of the public authorities law prior to such expiration.

§ 2. This act shall take effect immediately.

PART DD

Section 1. Subdivision (a) of section 2 and section 3 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, subdivision (a) of section 2 as amended by section 1 of part M of chapter 39 of the laws of 2019, and section 3 as amended by section 3 of part RRR of chapter 59 of the laws of 2017, are amended to read as follows:

(a) (i) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation ~~[and]~~, the New York state bridge authority, the office of general services, the dormitory authority, the urban development corporation, the state university construction fund, the New York state Olympic regional development authority and the battery park city authority.

(ii) Notwithstanding the provisions of subdivision 26 of section 1678 of the public authorities law, section 8 of the public buildings law, sections 8 and 9 of section 1 of chapter 359 of the laws of 1968 as amended, section 103 of the general municipal law, and the provisions of any other law to the contrary, the term "authorized state entity" shall also refer to only those agencies or authorities identified below solely in connection with the following authorized projects, provided that such an authorized state entity may utilize the alternative delivery method referred to as design-build contracts solely in connection with the following authorized projects should the total cost of each such project not be less than five million dollars (\$5,000,000):

Authorized Projects	Authorized State Entity
1. Frontier Town	Urban Development Corporation
2. Life Sciences Laboratory	Dormitory Authority & Urban Development Corporation
3. Whiteface Transformative Projects	New York State Olympic Regional Development Authority
4. Gore Transformative Projects	New York State Olympic Regional Development Authority
5. Belleayre Transformative Projects	New York State Olympic Regional Development Authority
6. Mt. Van Hoevenberg Transformative	New York State Olympic Regional

1	Projects	Development Authority
2	7. Olympic Training Center	New York State Olympic Regional
3		Development Authority
4	8. Olympic Arena and Convention	New York State Olympic Regional
5	Center Complex	Development Authority
6	9. State Fair Revitalization	Office of General
7	Projects	Services
8	10. State Police Forensic	Office of General
9	Laboratory	Services

10 Notwithstanding any provision of law to the contrary, all rights or
 11 benefits, including terms and conditions of employment, and protection
 12 of civil service and collective bargaining status of all existing
 13 employees of authorized state entities [~~solely in connection with the~~
 14 ~~authorized projects listed above,~~] shall be preserved and protected.
 15 Nothing in this section shall result in the: (1) displacement of any
 16 currently employed worker or loss of position (including partial
 17 displacement such as a reduction in the hours of non-overtime work,
 18 wages, or employment benefits) or result in the impairment of existing
 19 collective bargaining agreements; [~~and~~] (2) transfer of existing duties
 20 and functions related to maintenance and operations currently performed
 21 by existing employees of authorized state entities to a contracting
 22 entity; or (3) transfer of future duties and functions ordinarily
 23 performed by employees of authorized state entities to the contracting
 24 entity. Nothing contained herein shall be construed to affect (A) the
 25 existing rights of employees pursuant to an existing collective bargain-
 26 ing agreement, and (B) the existing representational relationships among
 27 employee organizations or the bargaining relationships between the
 28 employer and an employee organization.

29 If otherwise applicable, authorized projects undertaken by the author-
 30 ized state entities listed above solely in connection with the
 31 provisions of this act shall be subject to section 135 of the state
 32 finance law, section 101 of the general municipal law, and section 222
 33 of the labor law; provided, however, that an authorized state entity may
 34 fulfill its obligations under section 135 of the state finance law or
 35 section 101 of the general municipal law by requiring the contractor to
 36 prepare separate specifications in accordance with section 135 of the
 37 state finance law or section 101 of the general municipal law, as the
 38 case may be.

39 § 3. Notwithstanding the provisions of section 38 of the highway law,
 40 section 136-a of the state finance law, [~~section~~] sections 359, 1678,
 41 1680, 1680-a and 2879-a of the public authorities law, [~~section~~]
 42 sections 376, 407-a, 6281 and 7210 of the education law, sections 8 and
 43 9 of the public buildings law, section 11 of chapter 795 of the laws of
 44 1967, section 11 of section 1 of chapter 174 of the laws of 1968 as
 45 amended, section 8 and 9 of section 1 of chapter 359 of the laws of 1968
 46 as amended, section 29 of chapter 337 of the laws of 1972, section 21 of
 47 chapter 464 of the laws of 1972, section 103 of the general municipal
 48 law, and the provisions of any other law to the contrary, and in
 49 conformity with the requirements of this act, an authorized state entity
 50 may utilize the alternative delivery method referred to as design-build
 51 contracts, in consultation with relevant local labor organizations and
 52 construction industry, for capital projects located in the state related
 53 to [~~the state's~~] physical infrastructure, including, but not limited to,
 54 [~~the state's~~] highways, bridges, buildings and appurtenant structures,
 55 dams, flood control projects, canals, and parks, including, but not

1 limited to, to repair damage caused by natural disaster, to correct
2 health and safety defects, to comply with federal and state laws, stand-
3 ards, and regulations, to extend the useful life of or replace [~~the~~
4 ~~state's~~] highways, bridges, buildings and appurtenant structures, dams,
5 flood control projects, canals, and parks or to improve or add to [~~the~~
6 ~~state's~~] highways, bridges, buildings and appurtenant structures, dams,
7 flood control projects, canals, and parks; provided that for the
8 contracts executed by the department of transportation, the office of
9 parks, recreation and historic preservation, or the department of envi-
10 ronmental conservation, the total cost of each such project shall not be
11 less than ten million dollars (\$10,000,000).

12 § 2. The opening paragraph and subdivision (a) of section 4 of part F
13 of chapter 60 of the laws of 2015 constituting the infrastructure
14 investment act, as amended by section 4 of part RRR of chapter 59 of the
15 laws of 2017, are amended to read as follows:

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

19 (a) Step one. Generation of a list of entities that have demonstrated
20 the general capability to perform the design-build contract. Such list
21 shall consist of a specified number of entities, as determined by an
22 authorized state entity, and shall be generated based upon the author-
23 ized state entity's review of responses to a publicly advertised request
24 for qualifications. The authorized state entity's request for qualifica-
25 tions shall include a general description of the project, the maximum
26 number of entities to be included on the list, the selection criteria to
27 be used and the relative weight of each criteria in generating the list.
28 Such selection criteria shall include the qualifications and experience
29 of the design and construction team, organization, demonstrated respon-
30 sibility, ability of the team or of a member or members of the team to
31 comply with applicable requirements, including the provisions of arti-
32 cles 145, 147 and 148 of the education law, past record of compliance
33 with the labor law, and such other qualifications the authorized state
34 entity deems appropriate which may include but are not limited to
35 project understanding, financial capability and record of past perform-
36 ance. The authorized state entity shall evaluate and rate all entities
37 responding to the request for qualifications. Based upon such ratings,
38 the authorized state entity shall list the entities that shall receive a
39 request for proposals in accordance with subdivision (b) of this
40 section. To the extent consistent with applicable federal law, the
41 authorized state entity shall consider, when awarding any contract
42 pursuant to this section, the participation of: (i) firms certified
43 pursuant to article 15-A of the executive law as minority or women-owned
44 businesses and the ability of other businesses under consideration to
45 work with minority and women-owned businesses so as to promote and
46 assist participation by such businesses; [~~and~~] (ii) small business
47 concerns identified pursuant to subdivision (b) of section 139-g of the
48 state finance law; and (iii) firms certified pursuant to article 17-B of
49 the executive law as service-disabled veteran-owned businesses and the
50 ability of other businesses under consideration to work with service-
51 disabled veteran-owned businesses so as to promote and assist partic-
52 ipation by such businesses.

53 § 3. Sections 7 and 8 of part F of chapter 60 of the laws of 2015
54 constituting the infrastructure investment act are amended to read as
55 follows:

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

§ 8. Each contract entered into by the authorized state entity pursuant to this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article 15-A of the executive law and of service-disabled veteran-owned business enterprises pursuant to article 17-B of the executive law or, for projects receiving federal aid, shall comply with applicable federal requirements for disadvantaged business enterprises.

§ 4. Paragraph 3 of subdivision (a) and subdivision (b) of section 13 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, as amended by section 11 of part RRR of chapter 59 of the laws of 2017, are amended to read as follows:

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

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

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

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

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

§ 6. 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.

1 PART EE

2 Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174
3 of the laws of 1968 constituting the New York state urban development
4 corporation act, as amended by section 1 of part Z of chapter 58 of the
5 laws of 2019, is amended to read as follows:

6 3. The provisions of this section shall expire, notwithstanding any
7 inconsistent provision of subdivision 4 of section 469 of chapter 309 of
8 the laws of 1996 or of any other law, on July 1, ~~2020~~ 2021.

9 § 2. This act shall take effect immediately and shall be deemed to
10 have been in full force and effect on and after July 1, 2020.

11 PART FF

12 Section 1. Section 2 of chapter 393 of the laws of 1994, amending the
13 New York state urban development corporation act, relating to the powers
14 of the New York state urban development corporation to make loans, as
15 amended by section 1 of part Y of chapter 58 of the laws of 2019, is
16 amended to read as follows:

17 § 2. This act shall take effect immediately provided, however, that
18 section one of this act shall expire on July 1, ~~2020~~ 2021, at which
19 time the provisions of subdivision 26 of section 5 of the New York state
20 urban development corporation act shall be deemed repealed; provided,
21 however, that neither the expiration nor the repeal of such subdivision
22 as provided for herein shall be deemed to affect or impair in any manner
23 any loan made pursuant to the authority of such subdivision prior to
24 such expiration and repeal.

25 § 2. This act shall take effect immediately and shall be deemed to
26 have been in full force and effect on and after April 1, 2020.

27 PART GG

28 Section 1. Paragraph (a) of subdivision 11 of section 400 of the
29 economic development law, as amended by section 3 of part QQ of chapter
30 60 of the laws of 2016, is amended to read as follows:

31 (a) a correctional facility, as defined in paragraph (a) of subdivi-
32 sion four of section two of the correction law, that has been selected
33 by the governor of the state of New York for closure after April first,
34 two thousand eleven~~[but no later than March thirty-first, two thousand~~
35 ~~twelve]~~; or

36 § 2. This act shall take effect immediately; provided, however, that
37 the amendments to section 400 of the economic development law made by
38 section one of this act shall not affect the repeal of such section and
39 shall be deemed repealed therewith.

40 PART HH

41 Section 1. Expenditures of moneys by the New York state energy
42 research and development authority for services and expenses of the
43 energy research, development and demonstration program, including
44 grants, the energy policy and planning program, the zero emissions vehi-
45 cle and electric vehicle rebate program, and the Fuel NY program shall
46 be subject to the provisions of this section. Notwithstanding the
47 provisions of subdivision 4-a of section 18-a of the public service law,
48 all moneys committed or expended in an amount not to exceed \$22,700,000
49 shall be reimbursed by assessment against gas corporations, as defined

1 in subdivision 11 of section 2 of the public service law and electric
2 corporations as defined in subdivision 13 of section 2 of the public
3 service law, where such gas corporations and electric corporations have
4 gross revenues from intrastate utility operations in excess of \$500,000
5 in the preceding calendar year, and the total amount which may be
6 charged to any gas corporation and any electric corporation shall not
7 exceed one cent per one thousand cubic feet of gas sold and .010 cent
8 per kilowatt-hour of electricity sold by such corporations in their
9 intrastate utility operations in calendar year 2018. Such amounts shall
10 be excluded from the general assessment provisions of subdivision 2 of
11 section 18-a of the public service law. The chair of the public service
12 commission shall bill such gas and/or electric corporations for such
13 amounts on or before August 10, 2020 and such amounts shall be paid to
14 the New York state energy research and development authority on or
15 before September 10, 2020. Upon receipt, the New York state energy
16 research and development authority shall deposit such funds in the ener-
17 gy research and development operating fund established pursuant to
18 section 1859 of the public authorities law. The New York state energy
19 research and development authority is authorized and directed to: (1)
20 transfer up to \$4 million to the state general fund for climate change
21 related services and expenses of the department of environmental conser-
22 vation, \$150,000 to the state general fund for services and expenses of
23 the department of agriculture and markets, and \$825,000 to the Universi-
24 ty of Rochester laboratory for laser energetics from the funds received;
25 and (2) commencing in 2016, provide to the chair of the public service
26 commission and the director of the budget and the chairs and secretaries
27 of the legislative fiscal committees, on or before August first of each
28 year, an itemized record, certified by the president and chief executive
29 officer of the authority, or his or her designee, detailing any and all
30 expenditures and commitments ascribable to moneys received as a result
31 of this assessment by the chair of the department of public service
32 pursuant to section 18-a of the public service law. This itemized
33 record shall include an itemized breakdown of the programs being funded
34 by this section and the amount committed to each program. The authority
35 shall not commit for any expenditure, any moneys derived from the
36 assessment provided for in this section, until the chair of such author-
37 ity shall have submitted, and the director of the budget shall have
38 approved, a comprehensive financial plan encompassing all moneys avail-
39 able to and all anticipated commitments and expenditures by such author-
40 ity from any source for the operations of such authority. Copies of the
41 approved comprehensive financial plan shall be immediately submitted by
42 the chair to the chairs and secretaries of the legislative fiscal
43 committees. Any such amount not committed by such authority to
44 contracts or contracts to be awarded or otherwise expended by the
45 authority during the fiscal year shall be refunded by such authority on
46 a pro-rata basis to such gas and/or electric corporations, in a manner
47 to be determined by the department of public service, and any refund
48 amounts must be explicitly lined out in the itemized record described
49 above.

50 § 2. This act shall take effect immediately and shall be deemed to
51 have been in full force and effect on and after April 1, 2020.

1 Section 1. The closing paragraph of subdivision 1 of section 161 of
2 the labor law, as added by chapter 105 of the laws of 2019, is amended
3 to read as follows:

4 Every person employed as a farm laborer shall be allowed at least
5 twenty-four consecutive hours of rest in each and every calendar week.
6 This requirement shall not apply to the employer or parent, child,
7 spouse or other member of the employer's immediate family. The term
8 "employer" shall have the same meaning as defined in paragraphs (a) and
9 (b) of subdivision two of section seven hundred one of this chapter. The
10 term "immediate family member" shall mean family related to the third
11 degree of consanguinity or affinity. Twenty-four consecutive hours spent
12 at rest because of circumstances, such as weather or crop conditions,
13 shall be deemed to constitute the rest required by this paragraph. No
14 provision of this paragraph shall prohibit a farm laborer from voluntar-
15 ily agreeing to work on such day of rest required by this paragraph,
16 provided that the farm laborer is compensated at an overtime rate which
17 is at least one and one-half times the laborer's regular rate of pay for
18 all hours worked on such day of rest. The term "farm labor" as used in
19 this section and sections one hundred sixty-two and one hundred sixty-
20 three-a of this article shall include all services performed in agricul-
21 tural employment in connection with cultivating the soil, or in
22 connection with raising or harvesting of agricultural commodities,
23 including the raising, shearing, caring for and management of livestock,
24 poultry or dairy. The day of rest authorized under this subdivision
25 should, whenever possible, coincide with the traditional day reserved by
26 the farm laborer for religious worship.

27 § 2. Section 163-a of the labor law, as added by chapter 105 of the
28 laws of 2019, is amended to read as follows:

29 § 163-a. Farm laborers. No person or corporation operating a farm
30 shall require any [~~employee~~] farm laborer to work more than sixty hours
31 in any calendar week; provided, however, that any overtime work
32 performed by a farm laborer shall be at a rate which is at least one and
33 one-half times the laborer's regular rate of pay. No wage order subject
34 to the provisions of this chapter shall be applicable to a farm laborer
35 other than a wage order established pursuant to section six hundred
36 seventy-four or six hundred seventy-four-a of this chapter.

37 § 3. Paragraph (c) of subdivision 3 of section 701 of the labor law,
38 as added by chapter 105 of the laws of 2019, is amended to read as
39 follows:

40 (c) The term "employee" shall also include farm laborers. "Farm labor-
41 ers" shall mean any individual engaged or permitted by an employer to
42 work on a farm, except the parent, spouse, child, or other member of the
43 employer's immediate family. The term "immediate family member" shall
44 mean family related to the third degree of consanguinity or affinity.

45 § 4. This act shall take effect immediately.

46 PART JJ

47 Section 1. Section 103 of the general municipal law is amended by
48 adding a new subdivision 9-b to read as follows:

49 9-b. Notwithstanding the foregoing provisions of this section to the
50 contrary, a board of education, on behalf of its school district, or a
51 board of cooperative educational services, that purchases goods and
52 services for the federal child nutrition programs may use its own
53 procurement procedures which adhere to applicable local laws and regu-
54 lations, 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.

303. Suspension and revocation.

304. Bad actors.

§ 295. Definitions. As used in this article:

1. "Applicant" means a consumer debt collector who has filed an application to obtain a license under this article.

2. "Communication" and "communicate" means the conveying of information regarding a debt directly or indirectly to any person through any medium.

3. "Consumer debt" means any obligation of a natural person for the payment of money or its equivalent which arises out of a transaction which was primarily for personal, family, or household purposes. The term includes an obligation of a natural person who is a co-maker, endorser, guarantor or surety of such a transaction.

4. "Consumer debtor" means any natural person obligated or allegedly obligated to pay any consumer debt.

5. "Consumer debt collector" means any person who engages in a business, a principal purpose of which is the collection of consumer debts

1 or of debt buying, or who regularly collects or attempts to collect,
2 directly or indirectly, consumer debts owed or due to another person.
3 The term includes any creditor who, in the process of collecting its own
4 consumer debts, and uses any name other than its own which would reason-
5 ably indicate that a third person is collecting or attempting to collect
6 a consumer debt.

7 6. "Control" means the possession, direct or indirect, of the power to
8 direct or cause the direction of the management and policies of a
9 person, whether through the ownership of voting securities, by contract,
10 except a commercial contract for goods or non-management services, or
11 otherwise; but no person shall be deemed to control another person sole-
12 ly by reason of his or her being an officer or director of such other
13 person. Control shall be presumed to exist if any person directly or
14 indirectly owns, controls or holds with the power to vote ten percent or
15 more of the voting securities of any other person.

16 7. "Creditor" means any person to whom a consumer debt is owed.

17 8. "Licensee" means a consumer debt collector that possesses one or
18 more licenses pursuant to this article.

19 9. "Person" means a natural person or any entity, including but not
20 limited to any partnership, corporation, branch, agency, association,
21 organization, any similar entity or any combination of the foregoing
22 acting in concert.

23 § 296. License required; entities exempt. 1. No person shall act with-
24 in this state as a consumer debt collector, directly or indirectly,
25 without first obtaining a license from the superintendent. A consumer
26 debt collector is acting within this state if it is seeking to collect
27 from any consumer debtor that resides within this state.

28 2. No creditor may utilize the services of a consumer debt collector
29 to collect from a consumer debtor that resides within this state unless
30 the consumer debt collector is licensed by the superintendent.

31 3. The requirements of subdivisions one and two of this section shall
32 not apply to:

33 (a) an individual employed by a licensed consumer debt collector when
34 attempting to collect on behalf of such consumer debt collector;

35 (b) a person who receives funds in escrow for subsequent distribution
36 to others, including, but not limited to, a real estate broker or lender
37 holding funds of borrowers for payment of taxes or insurance;

38 (c) any public officer acting in their official capacity;

39 (d) a person who is principally engaged in the business of servicing
40 loans or accounts which are not delinquent for the owners thereof when
41 in addition to requesting payment from delinquent consumer debtors, the
42 person provides other services including receipt of payment, accounting,
43 record-keeping, data processing services and remitting, for loans or
44 accounts which are current as well as those which are delinquent;

45 (e) any person while serving or attempting to serve legal process on
46 any other person in connection with the judicial enforcement of any
47 debt;

48 (f) any non-profit organization which, at the request of a consumer
49 debtor, performs bona fide consumer credit counseling and assists
50 customers in the liquidation of their debts by receiving payments from
51 such consumer debtors and distributing such amounts to creditors;

52 (g) any national bank, federal reserve bank, or agency or division of
53 the federal government, or any person, partnership, association, corpo-
54 ration or other organization doing business under or pursuant to the
55 provisions of this chapter, or any insurer doing business under a
56 license issued under the insurance law; and

1 (h) a subsidiary or affiliate of any national bank, federal reserve
2 bank, or agency or division of the federal government, or any person,
3 partnership, association, corporation or other organization doing busi-
4 ness under or pursuant to the provisions of this chapter or any insurer
5 doing business under a license issued under the insurance law, provided
6 such affiliate or subsidiary is not primarily engaged in the business of
7 purchasing and collecting upon delinquent debt, other than delinquent
8 debt secured by real property.

9 § 297. Application for license; fees. 1. (a) An application for a
10 license under this article shall be in writing, under oath, and in the
11 form prescribed by the superintendent and shall contain such information
12 as the superintendent may require.

13 (b) The superintendent may reject an application for a license or an
14 application for the renewal of a license if he or she is not satisfied
15 that the financial responsibility, character, reputation, integrity and
16 general fitness of the applicant and of the owners, partners or members
17 thereof, if the applicant be a partnership or association, and of the
18 officers and directors, if the applicant be a corporation, are such as
19 to command the confidence of the public and to warrant the belief that
20 the business for which the application for a license is filed will be
21 operated lawfully, honestly and fairly.

22 (c) In addition to any other information the superintendent may
23 require the application to also include a description of the activities
24 of the applicant, in such detail and for such periods, as the super-
25 intendent may establish.

26 2. At the time of making the application for a license, the applicant
27 shall pay to the superintendent a fee as prescribed pursuant to section
28 eighteen-a of this chapter for each proposed location, for investigating
29 the application.

30 3. In addition to any other fee imposed on an applicant or licensee,
31 every licensee shall pay to the superintendent the sums provided to be
32 paid under the provisions of section two hundred six of the financial
33 services law.

34 4. The license shall be for a period of one year as of the first of
35 September each year, or such other date as determined by the superinten-
36 dent by regulation.

37 5. Each license shall plainly state the name of the licensee and the
38 city or town with the name of the street and number, if any, of the
39 place where the business is to be carried on. A licensee shall not
40 change the location where the business of the licensee is to be carried
41 on without first obtaining the prior approval of the superintendent. A
42 request for relocation shall be in writing setting forth the reason for
43 the request, and shall be accompanied by a relocation investigation fee
44 to be determined pursuant to section eighteen-a of this chapter.

45 6. The business shall at all times be conducted in the name of the
46 licensee as it appears on the license.

47 7. The license shall not be transferable nor assignable.

48 8. The superintendent may participate in a multi-state licensing
49 system for the sharing of regulatory information and for the licensing
50 and application, by electronic or other means, of entities engaged in
51 the business of debt collection. The superintendent may establish
52 requirements for participation by an applicant in a multi-state licens-
53 ing system which may vary from the provisions of this section. The
54 superintendent may require a background investigation of each applicant
55 for a consumer debt collector license by means of fingerprint, which
56 shall be submitted by all applicants simultaneously with an application

1 and which the superintendent may submit to the division of criminal
2 justice services and the federal bureau of investigations for state and
3 national criminal history record checks. If the applicant is a partner-
4 ship, association, corporation or other form of business organization,
5 the superintendent may require a background investigation for each
6 member, director and principal officer of the applicant and any individ-
7 ual acting as a manager of an office location. The applicant shall pay
8 directly to the multi-state licensing system any additional fees relat-
9 ing to participation in the multi-state licensing system.

10 § 298. Surety bond required. 1. A consumer debt collector shall be
11 required to file and maintain in force a surety bond, issued by a domes-
12 tic insurer, as a condition precedent to the issuance or renewal and
13 maintenance of a license under this article. The bond shall be for the
14 benefit of creditors who obtain a judgment from a court of competent
15 jurisdiction based on the failure of the consumer debt collector to
16 remit money collected on account and owed to the creditor. The bond
17 shall also be for the benefit of consumer debtors who obtain judgment
18 from a court of competent jurisdiction based on a violation by the
19 consumer debt collector of the federal Fair Debt Collection Practice Act
20 or any other New York law or federal law which is applicable to the
21 consumer debt collector. The bond shall be in a form prescribed by the
22 superintendent in the sum of twenty-five thousand dollars. The bond
23 shall be continuous in form and run concurrently with the original and
24 each renewal license period unless terminated by the insurance company.
25 An insurance company may terminate a bond and avoid further liability by
26 filing a notice of termination with the department sixty days prior to
27 the termination and at the same time sending the same notice to the
28 consumer debt collector.

29 2. A license shall be automatically cancelled on the termination date
30 of the bond unless a new bond is filed with the department to become
31 effective at the termination date of the prior bond.

32 3. If a license has been cancelled under this section, the consumer
33 debt collector must file a new application to obtain a license and will
34 be considered a new applicant if it obtains a new bond.

35 4. For the purposes of this section the term "domestic insurer" shall
36 have the same meaning as given in section one hundred seven of the
37 insurance law. If a bond required by this section is not reasonably
38 available from a domestic insurer the superintendent may, in his or her
39 discretion, permit, on a case by case basis or by order, consumer debt
40 collectors to obtain the bond required by this section from such other
41 entities licensed by the department as the superintendent deems appro-
42 priate.

43 § 299. Examination; books and records; reports. 1. For the purpose of
44 enforcing the provisions of this article and for ensuring the safe and
45 sound operation of the consumer debt collector business, the superinten-
46 dent may at any time, and as often as may be determined, either
47 personally or by a person duly appointed by the superintendent, investi-
48 gate the loans and business and examine the books, accounts, records,
49 and files used therein of every licensee.

50 2. The superintendent and duly designated representatives shall have
51 free access to the offices and place of business, books, accounts,
52 papers, records, audio recordings, files, safes and vaults of all such
53 licensees wherever located. The superintendent shall have authority to
54 require the attendance of and to examine under oath all persons whomsoe-
55 ver whose testimony may be required relative to such loans or such busi-
56 ness.

1 3. The superintendent may also address to a licensee, or the officers
2 thereof, any inquiry in relation to its transactions, operations, or
3 conditions, or any matter connected therewith. Every person so addressed
4 shall reply in writing to such inquiry promptly and truthfully, and such
5 reply shall be, if required by the superintendent, subscribed by such
6 individual, or by such officer or officers of a corporation, as the
7 superintendent shall designate, and affirmed by them as true under the
8 penalties of perjury.

9 4. Each licensee shall keep and use in its business such books,
10 accounts, and records as will enable the superintendent to determine
11 whether such licensee is complying with the provisions of this article
12 and with the rules and regulations promulgated hereunder. Every licensee
13 shall preserve such books, accounts, and records, for at least five
14 years after making the final entry regarding a consumer debt. Preserva-
15 tion of photographic reproduction thereof or records in photographic
16 form, including an optical disk storage system and the use of electronic
17 data processing equipment that provides comparable records to those
18 otherwise required and which are available for examination upon request
19 shall constitute compliance with the requirements of this section.

20 5. Each licensee shall annually, on or before April first, file a
21 report with the superintendent giving such information as the super-
22 intendent may require concerning the business and operations during the
23 preceding calendar year of each licensed place of business conducted by
24 such licensee within the state under authority of this article. Such
25 report shall be subscribed and affirmed as true by the licensee under
26 the penalties of perjury and shall be in the form prescribed by the
27 superintendent.

28 6. In addition to annual reports, the superintendent may require such
29 additional regular or special reports as may be deemed necessary to the
30 proper supervision of licensees under this article. Such additional
31 reports shall be in the form prescribed by the superintendent and shall
32 be subscribed and affirmed as true under the penalties of perjury.

33 7. The expenses of every examination of the affairs of a consumer debt
34 collector subject to this section shall be borne and paid by the licen-
35 see.

36 § 300. Prohibited acts. 1. No consumer debt collector that is required
37 to be licensed under this article shall engage in unfair, unconsciona-
38 ble, deceptive, false, misleading, abusive, or unlawful acts or prac-
39 tices.

40 2. Without limiting the general application of the prohibited acts in
41 subdivision one of this section, it shall be unlawful for any consumer
42 debt collector to:

43 (a) engage in any act or practice which would be a violation of the
44 federal Fair Debt Collection Practice Act, any other New York law or
45 federal law which is applicable to the consumer debt collector, or any
46 act or practice which would be prohibited under section six hundred one
47 of the general business law if the consumer debt collector was a princi-
48 pal creditor;

49 (b) engage or retain the services of any person who, being required to
50 be licensed under this article, does not have a valid license issued by
51 the department; or

52 (c) cause any act to be done which violates this section.

53 3. No consumer debt collector licensed under this article shall:

54 (a) without the prior written and revocable consent of the consumer
55 debtor given directly to the debt collector or the express permission of

1 a court of competent jurisdiction, engage in any communication with a
2 consumer debtor in connection with the collection of any debts:

3 (i) at any unusual time or place or a time or place known or which
4 should be known to be inconvenient to the consumer debtor. In the
5 absence of knowledge of circumstances to the contrary, a debt collector
6 shall assume that the convenient time for communicating with a consumer
7 debtor is after eight o'clock antemeridian and before eight o'clock
8 postmeridian, local time at the consumer debtor's location;

9 (ii) if the debt collector knows the consumer debtor is represented by
10 an attorney with respect to such debt and has knowledge of, or can read-
11 ily ascertain, such attorney's name and address, unless the attorney
12 fails to respond within a reasonable period of time to a communication
13 from the debt collector or unless the attorney consents to direct commu-
14 nication with the consumer debtor;

15 (iii) at the consumer debtor's place of employment;

16 (iv) more than two times in a seven day period;

17 (v) by voicemail on to any telephone that is known or which reasonably
18 should be known may be received by someone other than the consumer
19 debtor; or

20 (vi) by means of electronic communications, including but not limited
21 to SMS text message, messaging applications on mobile telephones, elec-
22 tronic mail, Facebook, and other forms of social media.

23 (b) communicate with a consumer debtor by postcard;

24 (c) continue communication with a consumer debtor after the consumer
25 debt collector's first communication if the debt collector fails to send
26 the consumer debtor a notice in writing within five days of that first
27 communication, which such notice shall be promulgated by the superinten-
28 dent; or

29 (d) continue to communicate with a consumer debtor about a consumer
30 debt that the consumer debtor disputes without providing the consumer
31 debtor with documents that verify the disputed consumer debt.

32 § 301. Regulations; minimum standards. The superintendent may promul-
33 gate rules and regulations giving effect to the provisions of this arti-
34 cle. Such rules and regulations may include but shall not be limited to
35 the establishment of minimum standards to be observed by consumer debt
36 collectors acting within this state and further defining acts and prac-
37 tices which are unfair, unconscionable, deceptive, false, misleading,
38 abusive, or unlawful under section three hundred of this article.

39 § 302. Application for acquisition of control of a consumer debt
40 collector. 1. No person shall acquire control of a licensee under this
41 article without the prior approval of the superintendent.

42 2. Any person desirous of acquiring such control shall make written
43 application to the superintendent, such application shall be in such
44 form and shall contain such information, including the information
45 required under section two hundred ninety-seven of this article, as the
46 superintendent may require and such person, at the time of making such
47 application if not licensed, shall pay to the superintendent an investi-
48 gation fee as prescribed pursuant to section eighteen-a of this chapter.

49 3. In determining whether to approve or deny an application under this
50 section, the superintendent shall consider:

51 (a) whether the financial responsibility, experience, character, and
52 general fitness of the person seeking to acquire control, and of the
53 members thereof if such person be a partnership or association, and of
54 the officers, directors and controlling stockholders thereof if such
55 person be a corporation, are such as to command the confidence of the

1 community and to warrant belief that the business will be operated
2 honestly, fairly, and efficiently within the purpose of this article;

3 (b) the effect the acquisition may have on competition; and

4 (c) whether the acquisition may be hazardous or prejudicial to consum-
5 er debtors or consumer creditors in this state.

6 4. If no such application has been made prior to the acquisition of
7 control, the license for each place of business maintained and operated
8 by the licensee shall, at the discretion of the superintendent, become
9 null and void and each such license shall be surrendered to the super-
10 intendent.

11 § 303. Suspension and revocation. In addition to any other power
12 provided by law, the superintendent may suspend or revoke the license of
13 a consumer debt collector, if after notice and an opportunity to be
14 heard, the superintendent finds that a consumer debt collector has:

15 1. committed any fraud, engaged in any dishonest activities or made
16 any misrepresentation;

17 2. violated any provisions of this chapter or any regulation issued
18 pursuant thereto, or has violated any other law in the course of its or
19 his dealings as a consumer debt collector;

20 3. made a false statement or material omission in the application for
21 a license under this article or failed to give a true reply to a ques-
22 tion in such application; or

23 4. demonstrated incompetency or untrustworthiness to act as a consumer
24 debt collector.

25 § 304. Bad actors. 1. In addition to any other power provided by law,
26 the superintendent may require any licensee to remove any director,
27 officer or employee or to refrain from engaging or retaining any inde-
28 pendent contractor or service provider if such director, officer,
29 employee, independent contractor or service provider has themselves had
30 a license under this chapter suspended or revoked, or has caused the
31 licensee to violate any provision of this chapter or regulations promul-
32 gated thereunder.

33 2. No person that is the subject of an order under this section remov-
34 ing them as a director, officer or employee or preventing a licensee
35 from engaging or retaining them as an independent contractor or service
36 provider, shall become engaged with any licensee without obtaining the
37 prior written approval of the superintendent. Nor shall such person fail
38 to disclose that it is the subject of an order under this section to any
39 licensee for which it is acting or seeking to act as a director, offi-
40 cer, employee, independent contractor or service provider.

41 § 2. Subdivision 10 of section 36 of the banking law, as amended by
42 section 2 of part L of chapter 58 of the laws of 2019, is amended to
43 read as follows:

44 10. All reports of examinations and investigations, correspondence and
45 memoranda concerning or arising out of such examination and investi-
46 gations, including any duly authenticated copy or copies thereof in the
47 possession of any banking organization, bank holding company or any
48 subsidiary thereof (as such terms "bank holding company" and "subsid-
49 iary" are defined in article three-A of this chapter), any corporation
50 or any other entity affiliated with a banking organization within the
51 meaning of subdivision six of this section and any non-banking subsid-
52 iary of a corporation or any other entity which is an affiliate of a
53 banking organization within the meaning of subdivision six-a of this
54 section, foreign banking corporation, licensed lender, licensed cashier
55 of checks, licensed mortgage banker, registered mortgage broker,
56 licensed mortgage loan originator, licensed sales finance company,

1 registered mortgage loan servicer, licensed student loan servicer,
2 licensed insurance premium finance agency, licensed transmitter of
3 money, licensed budget planner, licensed consumer debt collector, any
4 other person or entity subject to supervision under this chapter, or the
5 financial services law or the insurance law, or the department, shall be
6 confidential communications, shall not be subject to subpoena and shall
7 not be made public unless, in the judgment of the superintendent, the
8 ends of justice and the public advantage will be subserved by the publi-
9 cation thereof, in which event the superintendent may publish or author-
10 ize the publication of a copy of any such report or any part thereof in
11 such manner as may be deemed proper or unless such laws specifically
12 authorize such disclosure. For the purposes of this subdivision,
13 "reports of examinations and investigations, and any correspondence and
14 memoranda concerning or arising out of such examinations and investi-
15 gations", includes any such materials of a bank, insurance or securities
16 regulatory agency or any unit of the federal government or that of this
17 state any other state or that of any foreign government which are
18 considered confidential by such agency or unit and which are in the
19 possession of the department or which are otherwise confidential materi-
20 als that have been shared by the department with any such agency or unit
21 and are in the possession of such agency or unit.

22 § 3. Paragraph (a) of subdivision 1 of section 44 of the banking law,
23 as amended by section 4 of part L of chapter 58 of the laws of 2019, is
24 amended to read as follows:

25 (a) Without limiting any power granted to the superintendent under any
26 other provision of this chapter, the superintendent may, in a proceeding
27 after notice and a hearing, require any safe deposit company, licensed
28 lender, licensed casher of checks, licensed sales finance company,
29 licensed insurance premium finance agency, licensed transmitter of
30 money, licensed mortgage banker, licensed student loan servicer, regis-
31 tered mortgage broker, licensed mortgage loan originator, registered
32 mortgage loan servicer, licensed consumer debt collector or licensed
33 budget planner to pay to the people of this state a penalty for any
34 violation of this chapter, any regulation promulgated thereunder, any
35 final or temporary order issued pursuant to section thirty-nine of this
36 article, any condition imposed in writing by the superintendent in
37 connection with the grant of any application or request, or any written
38 agreement entered into with the superintendent.

39 § 4. The opening paragraph of subdivision (a) of section 3218 of the
40 civil practice law and rules, as amended by chapter 311 of the laws of
41 1963, is amended to read as follows:

42 Affidavit of defendant. Except as provided in section thirty-two
43 hundred one of this article and subdivision (e) of this section, a judg-
44 ment by confession may be entered, without an action, either for money
45 due or to become due, or to secure the plaintiff against a contingent
46 liability in behalf of the defendant, or both, upon an affidavit
47 executed by the defendant;

48 § 5. Section 3218 of the civil practice law and rules is amended by
49 adding a new subdivision (e) to read as follows:

50 (e) Prohibition on certain judgments by confession. No judgment of
51 confession may be entered on: 1. any amount due from one or more indi-
52 viduals for personal, family, household, consumer, investment or non-bu-
53 siness purposes;

54 2. any amount under two hundred fifty thousand dollars due from any
55 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.

(c) "FSA ID" means a username and password allocated to an individual by the federal government to enable the individual to log in to certain United States department of education websites, and may be used to sign certain documents electronically.

(d) "Student loan" means any loan to a borrower to finance post-secondary education or expenses related to post-secondary education.

(e) "Student debt consulting contract" or "contract" means an agreement between a borrower and a consultant under which the consultant agrees to provide student debt consulting services.

(f) "Student debt consultant" or "consultant" means an individual or a corporation, partnership, limited liability company or other business entity that, directly or indirectly, solicits or undertakes student debt consulting services. A consultant does not include the following:

(i) a person or entity who holds or is owed an obligation on the student loan while the person or entity performs services in connection with the student loan;

(ii) a bank, trust company, private banker, bank holding company, savings bank, savings and loan association, thrift holding company,

1 credit union or insurance company organized under the laws of this
2 state, another state or the United States, or a subsidiary or affiliate
3 of such entity or a foreign banking corporation licensed by the super-
4 intendent of financial services or the comptroller of the currency;

5 (iii) a bona fide not-for-profit organization that offers counseling
6 or advice to borrowers;

7 (iv) an attorney admitted to practice in the state of New York when
8 the attorney is providing student debt consulting services to a borrower
9 free of charge;

10 (v) an institution of higher education wherein the borrower is or was
11 enrolled; or

12 (vi) such other persons as the superintendent prescribes or interprets
13 by rule.

14 (g) "Student debt consulting services" means services that a student
15 debt consultant provides to a borrower that the consultant represents
16 will help to achieve any of the following:

17 (i) stop, enjoin, delay, void, set aside, annul, stay or postpone a
18 default, bankruptcy, tax offset, or garnishment proceeding;

19 (ii) obtain a forbearance, deferment, or other relief that temporarily
20 halts repayment of a student loan;

21 (iii) assist the borrower with preparing or filing documents related
22 to student loan repayment;

23 (iv) advise the borrower which student loan repayment plan or forgive-
24 ness program to consider;

25 (v) enroll the borrower in any student loan repayment, forgiveness,
26 discharge, or consolidation program;

27 (vi) assist the borrower in re-establishing eligibility for federal
28 student financial assistance;

29 (vii) assist the borrower in removing a student loan from default; or

30 (viii) educate the borrower about student loan repayment.

31 § 702. Prohibitions. A student debt consultant is prohibited from
32 doing the following:

33 (a) performing student debt consulting services without a written,
34 fully executed contract with a borrower;

35 (b) charging for or accepting any payment for student debt consulting
36 services before the full completion of all such services, including a
37 payment to be placed in escrow or any other account pending the
38 completion of such services;

39 (c) taking a power of attorney from a borrower;

40 (d) retaining any original loan document or other original document
41 related to a borrower's student loan;

42 (e) requesting that a borrower provide his or her FSA ID to the
43 consultant, or accepting a borrower's FSA ID;

44 (f) stating or implying that a borrower will not be able to obtain
45 relief on their own;

46 (g) misrepresenting, expressly or by implication, that:

47 (i) the consultant is a part of, affiliated with, or endorsed or spon-
48 sored by the government, government loan programs, the United States
49 department of education, or borrowers' student loan servicers; or

50 (ii) some or all of a borrower's payments to the consultant will be
51 applied towards the borrower's student loans;

52 (h) inducing or attempting to induce a student debtor to enter a
53 contract that does not fully comply with the provisions of this article;
54 or

55 (i) engaging in any unfair, deceptive, or abusive act or practice.

§ 703. Disclosure requirements. (a) A student debt consultant shall clearly and conspicuously disclose in all advertisements:

(i) the actual services the consultant provides to borrowers;

(ii) that borrowers can apply for and obtain consolidation loans from the United States department of education at no cost, including providing a direct link in all written advertising to the application materials for a direct consolidation loan from the U.S. department of education;

(iii) that consolidation or other services offered by the consultant may not be the best or only option for borrowers;

(iv) that a borrower may obtain alternative federal student loan repayment plans, including income-based programs, without consolidating existing federal student loans; and

(v) that borrowers should consider consulting their student loan servicer before signing any legal document concerning a student loan.

(b) The disclosures required by subsection (a) of this section, if disseminated through print media or the internet, shall be clearly and legibly printed or displayed in not less than twelve-point bold type, or, if the advertisement is printed to be displayed in print that is smaller than twelve-point, in bold type print that is no smaller than the print in which the text of the advertisement is printed or displayed.

(c) The provisions of this section shall apply to all consultants who disseminate advertisements in the state of New York or who intend to directly or indirectly contact a borrower who has a student loan and is a resident of New York state. Consultants shall establish and at all times maintain control over the content, form and method of dissemination of all advertisements of their services. Further, all advertisements shall be sufficiently complete and clear to avoid the possibility of deception or the ability to mislead or deceive.

§ 704. Student debt consulting contracts. (a) A student debt consulting contract shall:

(1) contain the entire agreement of the parties;

(2) be provided in writing to the borrower for review before signing;

(3) be printed in at least twelve-point type and written in the same language that is used by the borrower and was used in discussions between the consultant and the borrower to describe the borrower's services or to negotiate the contract;

(4) fully disclose the exact nature of the services to be provided by the consultant or anyone working in association with the consultant;

(5) fully disclose the total amount and terms of compensation for such services:

(6) contain the name, business address and telephone number of the consultant and the street address (if different) and facsimile number or email address of the consultant where communications from the debtor may be delivered;

(7) be dated and personally signed by the borrower and the consultant and be witnessed and acknowledged by a New York notary public; and

(8) contain the following notice, which shall be printed in at least fourteen-point boldface type, completed with the name of the provider, and located in immediate proximity to the space reserved for the debtor's signature:

"NOTICE REQUIRED BY NEW YORK LAW

You may cancel this contract, without any penalty or obligation, at any time before midnight of (fifth business day after execution).

1 (Name of consultant) (the "consultant") or anyone working
2 for the consultant may not take any money from you or ask you for money
3 until the consultant has completely finished doing everything this
4 contract says the consultant will do.

5 You should consider contacting your student loan servicer before sign-
6 ing any legal document concerning your student loan. In addition, you
7 may want to visit the New York State Department of Financial Services'
8 student lending resource center at www.dfs.ny.gov/studentprotection. The
9 law requires that this contract contain the entire agreement between you
10 and the provider. You should not rely upon any other written or oral
11 agreement or promise."

12 The provider shall accurately enter the date on which the right to
13 cancel ends.

14 (b) (1) The borrower has the right to cancel, without any penalty or
15 obligation, any contract with a consultant until midnight of the fifth
16 business day following the day on which the consultant and the borrower
17 sign a consulting contract. Cancellation occurs when the borrower, or a
18 representative of the borrower, either delivers written notice of
19 cancellation in person to the address specified in the consulting
20 contract or sends a written communication by facsimile, by United States
21 mail or by an established commercial letter delivery service. A dated
22 proof of facsimile delivery or proof of mailing creates a presumption
23 that the notice of cancellation has been delivered on the date the
24 facsimile is sent or the notice is deposited in the mail or with the
25 delivery service. Cancellation of the contract shall release the
26 borrower from all obligations to pay fees or any other compensation to
27 the consultant

28 (2) The contract shall be accompanied by two copies of a form,
29 captioned "notice of cancellation" in at least twelve-point bold type.
30 This form shall be attached to the contract, shall be easily detachable,
31 and shall contain the following statement written in the same language
32 as used in the contract, and the contractor shall insert accurate infor-
33 mation as to the date on which the right to cancel ends and the contrac-
34 tor's contact information:

35 "NOTICE OF CANCELLATION

36 Note: You may cancel this contract, without any penalty or obligation,
37 at any time before midnight of (Enter date)

38 To cancel this contract, sign and date both copies of this cancella-
39 tion notice and personally deliver one copy or send it by facsimile,
40 United States mail, or an established commercial letter delivery
41 service, indicating cancellation to the Consultant at one of the follow-
42 ing:

43 Name of Consultant

44 Street Address

45 City, State, Zip

46 Facsimile:

47 I hereby cancel this transaction.

48 Name of Borrower:

49 Signature of Borrower:

50 Date: "

51 (3) Within ten days following receipt of a notice of cancellation
52 given in accordance with this subdivision, the consultant shall return
53 any original contract and any other documents signed by or provided by
54 the borrower. Cancellation shall release the borrower of all obli-
55 gations to pay any fees or compensation to the consultant.

1 § 705. Penalties and other provisions. (a) If the superintendent
2 finds, after notice and hearing, that a consultant has violated any
3 provision of this article, the superintendent may: (1) make null and
4 void any agreement between the borrower and the consultant; and (2)
5 impose a civil penalty of not more than ten thousand dollars for each
6 violation.

7 (b) If the consultant violates any provision of this article and the
8 borrower suffers damage because of the violation, the borrower may
9 recover actual and consequential damages and costs from the consultant
10 in an action based on this article. If the consultant intentionally or
11 recklessly violates any provision of this article, the court may award
12 the borrower treble damages, attorneys' fees and costs.

13 (c) Any provision of a student debt consulting contract that attempts
14 or purports to limit the liability of the consultant under this article
15 shall be null and void. Inclusion of such provision shall at the option
16 of the borrower render the contract void. Any provision in a contract
17 which attempts or purports to require arbitration of any dispute arising
18 under this article shall be void at the option of the borrower. Any
19 waiver of the provisions of this article shall be void and unenforceable
20 as contrary to public policy.

21 (d) The provisions of this article are not exclusive and are in addi-
22 tion to any other requirements, rights, remedies, and penalties provided
23 by law.

24 § 706. Rules and regulations. In addition to such powers as may other-
25 wise be prescribed by this chapter, the superintendent is hereby author-
26 ized and empowered to promulgate such rules and regulations as may in
27 the judgment of the superintendent be consistent with the purposes of
28 this article, or appropriate for the effective administration of this
29 article.

30 § 2. Section 712 of the banking law is amended by adding a new subdi-
31 vision 3 to read as follows:

32 3. The department may also require the submission of the fingerprints
33 of the applicant, which may be submitted to the division of criminal
34 justice services and the federal bureau of investigation for state and
35 national criminal history record checks.

36 § 3. This act shall take effect immediately, provided, however, that
37 section one of this act shall take effect October 1, 2020.

38 PART NN

39 Section 1. Paragraph 2 of subsection (a) of section 104 of the finan-
40 cial services law is amended to read as follows:

41 (2) "Financial product or service" shall mean: (A) any financial prod-
42 uct or financial service offered or provided by any person regulated or
43 required to be regulated by the superintendent pursuant to the banking
44 law or the insurance law or any other financial product or service
45 offered or sold to consumers [~~except financial products or services: (i)~~
46 ~~regulated under the exclusive jurisdiction of a federal agency or~~
47 ~~authority, (ii) regulated for the purpose of consumer or investor~~
48 ~~protection by any other state agency, state department or state public~~
49 ~~authority, or (iii) where rules or regulations promulgated by the super-~~
50 ~~intendent on such financial product or service would be preempted by~~
51 ~~federal law] or small businesses; [and]~~

52 (B) the sale or provision to a consumer or small business of any secu-
53 rity, investment advice, or money management device;

1 (C) any warranty sold or provided to a consumer or small business or
2 any guarantee or suretyship provided to a consumer;

3 (D) any merchant cash advance provided to a consumer or small busi-
4 ness; or

5 (E) any contract involving any provision of subparagraphs (A) through
6 (D) of this paragraph.

7 "Financial product or service" shall [~~also~~] not include [~~the follow-~~
8 ~~ing, when offered or provided by a provider of consumer goods or~~
9 ~~services: (i) the extension of credit directly to a consumer exclusiv-~~
10 ~~ly for the purpose of enabling that consumer to purchase such consumer~~
11 ~~good or service directly from the seller, (ii) the collection of debt~~
12 ~~arising from such credit, or (iii) the sale or conveyance of such debt~~
13 ~~that is delinquent or otherwise in default] financial products or
14 services where the rules or regulations promulgated by the superinten-
15 dent on such financial products or services would be preempted by feder-
16 al law.~~

17 § 2. Subsection (a) of section 104 of the financial services law is
18 amended by adding a new paragraph 6 to read as follows:

19 (6) "Small business" shall mean a business which is independently
20 owned and operated, has less than ten million dollars in annual gross
21 receipts or sales, and employs one hundred or less persons.

22 § 3. Subsection (a) of section 206 of the financial services law is
23 amended and a new subsection (g) is added to read as follows:

24 (a) For each fiscal year commencing on or after April first, two thou-
25 sand twelve, assessments to defray operating expenses, including all
26 direct and indirect costs, of the department, except expenses incurred
27 in the liquidation of banking organizations, shall be assessed by the
28 superintendent in accordance with this subsection. Persons regulated
29 under the insurance law shall be assessed by the superintendent for the
30 operating expenses of the department that are solely attributable to
31 regulating persons under the insurance law, which shall include any
32 expenses that were permissible to be assessed in fiscal year two thou-
33 sand nine-two thousand ten, with the assessments allocated pro rata upon
34 all domestic insurers and all licensed United States branches of alien
35 insurers domiciled in this state within the meaning of paragraph four of
36 subsection (b) of section seven thousand four hundred eight of the
37 insurance law, in proportion to the gross direct premiums and other
38 considerations, written or received by them in this state during the
39 calendar year ending December thirty-first immediately preceding the end
40 of the fiscal year for which the assessment is made (less return premi-
41 ums and considerations thereon) for policies or contracts of insurance
42 covering property or risks resident or located in this state the issu-
43 ance of which policies or contracts requires a license from the super-
44 intendent. Persons regulated under the banking law shall be assessed by
45 the superintendent for the operating expenses of the department that are
46 solely attributable to regulating persons under the banking law in such
47 proportions as the superintendent shall deem just and reasonable.

48 Persons regulated under this chapter shall be assessed by the super-
49 intendent for the operating expenses of the department that are solely
50 attributable to regulated persons under this chapter in such proportions
51 as the superintendent shall deem just and reasonable. Operating expenses

52 of the department not covered by the assessments set forth above shall
53 be assessed by the superintendent in such proportions as the superinten-
54 dent shall deem just and reasonable upon all domestic insurers and all
55 licensed United States branches of alien insurers domiciled in this
56 state within the meaning of paragraph four of subsection (b) of section

1 seven thousand four hundred eight of the insurance law, and upon any
2 regulated person under this chapter and the banking law, other than
3 mortgage loan originators, except as otherwise provided by sections one
4 hundred fifty-one and two hundred twenty-eight of the workers' compen-
5 sation law and by section sixty of the volunteer firefighters' benefit
6 law. The provisions of this subsection shall not be applicable to a bank
7 holding company, as that term is defined in article three-A of the bank-
8 ing law. Persons regulated under the banking law will not be assessed
9 for expenses that the superintendent deems to benefit solely persons
10 regulated under the insurance law, and persons regulated under the
11 insurance law will not be assessed for expenses that the superintendent
12 deems to benefit solely persons regulated under the banking law.

13 (g) The expenses of every examination of the affairs of any regulated
14 person subject to this chapter, shall be borne and paid by such regu-
15 lated person so examined, but the superintendent, with the approval of
16 the comptroller, may, in the superintendent's discretion for good cause
17 shown, remit such charges.

18 § 4. The financial services law is amended by adding a new section 312
19 to read as follows:

20 § 312. Restitution. In any administrative proceeding or judicial
21 action brought under this chapter, the banking law, or the insurance
22 law, the superintendent may, in addition to any other penalty or sanc-
23 tion imposed by law, order the individual or entity subject to such
24 proceeding or action to make restitution to all consumers harmed by such
25 individual or entity's conduct.

26 § 5. The financial services law is amended by adding a new section 313
27 to read as follows:

28 § 313. Unlicensed actors. Any person or entity that is required by
29 this chapter, the banking law, or the insurance law to be licensed,
30 certified, registered, authorized, chartered, accredited, or incorpo-
31 rated and that is not specifically exempted from such applicable law
32 shall be subject to the laws of this chapter, the banking law, and the
33 insurance law, and the penalties contained therein as if such person or
34 entity was so licensed, certified, registered, authorized, chartered,
35 accredited, or incorporated, even if such person or entity does not
36 possess the required license, certification, registration, authori-
37 zation, charter, accreditation, or incorporation.

38 § 6. Subsection (a) of section 408 of the financial services law is
39 amended to read as follows:

40 (a) In addition to any civil or criminal liability provided by law,
41 the superintendent may, after notice and hearing, levy a civil penalty:

42 (1) not to exceed the greater of five thousand dollars ~~[per]~~ for each
43 offense[.]; a multiple of two times the aggregate damages attributable
44 to the offense; or a multiple of two times the aggregate economic gain
45 attributable to the offense for:

46 (A) any ~~[intentional]~~ fraud, ~~[or intentional]~~ misrepresentation ~~[of a~~
47 ~~material fact]~~, or unfair, deceptive, or abusive act or practice with
48 respect to a financial product or service or involving any person offer-
49 ing to provide or providing financial products or services or involving
50 any service provider utilized by any person offering to provide or
51 providing financial products or services; or

52 (B) any violation of state or federal fair debt collection practices
53 or federal or state fair lending laws; ~~[and]~~ or

54 ~~[(2) not to exceed one thousand dollars for]~~ (C) any other violation
55 of this chapter or the regulations issued thereunder, provided that

1 there shall be no civil penalty under this section for violations of
2 article five of this chapter or the regulations issued thereunder; and
3 [~~(3)~~] (2) provided, however, that:

4 (A) penalties for regulated persons under the banking law shall be as
5 provided for in the banking law and penalties for regulated persons
6 under the insurance law shall be as provided for in the insurance law;
7 and

8 (B) the superintendent shall not impose or collect any penalty under
9 this section in addition to any penalty or fine for the same act or
10 omission that is imposed under the insurance law or banking law; and

11 (C) nothing in this section shall affect the construction or interpre-
12 tation of the term "fraud" as it is used in any other provision of the
13 consolidated or unconsolidated law.

14 § 7. Paragraph 1 of subsection (c) of section 109 of the insurance
15 law, as amended by section 55 of part A of chapter 62 of the laws of
16 2011, is amended to read as follows:

17 (1) If the superintendent finds after notice and hearing that any
18 authorized insurer, representative of the insurer, licensed insurance
19 agent, licensed insurance broker, licensed adjuster, or any other person
20 or entity licensed, certified, registered, or authorized pursuant to
21 this chapter, has wilfully violated the provisions of this chapter or
22 any regulation promulgated thereunder, then the superintendent may order
23 the person or entity to pay to the people of this state a penalty in a
24 sum not exceeding [~~one~~] ten thousand dollars for each offense.

25 § 8. This act shall take effect immediately.

26 PART 00

27 Section 1. The banking law is amended by adding a new section 4-d to
28 read as follows:

29 § 4-d. Protecting vulnerable adults from financial exploitation. 1.
30 Definitions. As used in this section:

31 (a) "Banking institution" means any bank, trust company, savings bank,
32 savings and loan association, credit union, or branch of a foreign bank-
33 ing corporation, which is chartered, organized or licensed under the
34 laws of this state or any other state or the United States, and, in the
35 ordinary course of business takes deposit accounts in this state.

36 (b) "Vulnerable adult" means an individual who, because of mental
37 and/or physical impairment is potentially unable to manage his or her
38 own resources or protect himself or herself from financial exploitation.

39 (c) "Financial exploitation" means: (i) the improper taking, withhold-
40 ing, appropriation, or use of a vulnerable adult's money, assets, or
41 property; or (ii) any act or omission by a person, including through the
42 use of a power of attorney, guardianship, or any other authority regard-
43 ing a vulnerable adult to: (A) obtain control, through deception, intim-
44 idation or undue influence, over the vulnerable adult's money, assets,
45 or property or (B) convert the vulnerable adult's money, assets, or
46 property.

47 (d) "Transaction hold" means a delay in the completion of one or more
48 financial transactions pending an investigation by a banking institu-
49 tion, adult protective services, or a law enforcement agency.

50 (e) "Adult protective services" means the division of the New York
51 City Human Resources Administration and each county's department of
52 human services or department of social services responsible for provid-
53 ing adult protective services pursuant to section four hundred seventy-
54 three of the social services law.

1 (f) "Law enforcement agency" means any agency, including the financial
2 frauds and consumer protection unit of the department of financial
3 services, which is empowered by law to conduct an investigation or to
4 make an arrest for a felony, and any agency which is authorized by law
5 to prosecute or participate in the prosecution of a felony.

6 2. Application of transaction hold. (a) If a banking institution
7 reasonably believes: (i) that financial exploitation of a vulnerable
8 adult may have occurred, may have been attempted, or is being attempted;
9 and (ii) that the placement of a transaction hold may be necessary to
10 protect a vulnerable adult's money, assets, or property from financial
11 exploitation, then the banking institution may, at its discretion, apply
12 a transaction hold on the account of a vulnerable adult, the account on
13 which a vulnerable adult is a beneficiary, including a trust or guardi-
14 anship account, or the account of a person who is reasonably believed by
15 the banking institution to be engaging in the financial exploitation of
16 a vulnerable adult.

17 (b) A banking institution may also apply a transaction hold on the
18 account of a vulnerable adult, the account on which a vulnerable adult
19 is a beneficiary, including a trust or guardianship account, or the
20 account of a person who is reasonably believed by the banking institu-
21 tion to be engaging in the financial exploitation of a vulnerable adult,
22 if: (i) adult protective services or a law enforcement agency provides
23 information to the banking institution establishing a reasonable basis
24 to believe that financial exploitation of a vulnerable adult may have
25 occurred, may have been attempted, or is being attempted; and (ii) the
26 placement of a transaction hold may be necessary to protect a vulnerable
27 adult's money, assets, or property from financial exploitation.

28 (c) A banking institution that applies a transaction hold shall:

29 (i) make a reasonable effort to provide notice, orally or in writing,
30 to all parties authorized to transact business on the account on which a
31 transaction hold was placed within two business days of when the trans-
32 action hold was placed;

33 (ii) immediately, but no later than one business day after the trans-
34 action hold is placed, report the transaction hold, including the basis
35 for the banking institution's belief that the financial exploitation of
36 a vulnerable adult may have occurred, may have been attempted, or is
37 being attempted, to adult protective services and to a law enforcement
38 agency;

39 (iii) at the request of adult protective services or a law enforcement
40 agency, provide all information and documents that relate to the trans-
41 action hold within three business days of the request for the informa-
42 tion or documents; and

43 (iv) notwithstanding the transaction hold, make funds available from
44 the account on which a transaction hold is placed to allow the vulner-
45 able adult or other account holder to meet his or her ongoing obli-
46 gations such as housing and other living expenses or emergency expenses
47 as determined by adult protective services, a law enforcement agency or
48 a not-for-profit organization that regularly provides services to
49 vulnerable adults in the community in which the vulnerable adult
50 resides.

51 (d) During the pendency of a transaction hold, a banking institution
52 may, in its discretion, also make funds available from the account on
53 which a transaction hold is placed to allow the vulnerable adult or
54 other account holder to meet his or her ongoing obligations such as
55 housing and other living expenses or emergency expenses, provided the
56 banking institution does not have a reasonable basis to believe that the

1 dispersal of such funds to the vulnerable adult or other account holder
2 will result in the financial exploitation of the vulnerable adult. Any
3 such dispersal of funds pursuant to this subdivision shall be reported
4 within one business day after the dispersal is made to adult protective
5 services and to a law enforcement agency.

6 (e) The superintendent may adopt regulations identifying the factors
7 that a banking institution should consider in determining whether: (i)
8 the financial exploitation of a vulnerable adult may have occurred, may
9 have been attempted, or is being attempted; and (ii) the placement of a
10 transaction hold is necessary to protect a vulnerable adult's money,
11 assets, or property.

12 3. Duration of transaction hold. (a) Subject to paragraphs (b), (c)
13 and (d) of this subdivision, a transaction hold that a banking institu-
14 tion places on an account pursuant to this section shall terminate five
15 business days after the date on which the transaction hold is applied by
16 the banking institution. A banking institution may terminate the trans-
17 action hold at any time during this five day period if the banking
18 institution is satisfied that the termination of the transaction hold is
19 not likely to result in financial exploitation of a vulnerable adult.

20 (b) A transaction hold may be extended beyond the period set forth in
21 paragraph (a) of this subdivision for up to an additional fifteen days
22 at the request of either adult protective services or a law enforcement
23 agency.

24 (c) A transaction hold may be extended beyond the periods set forth in
25 paragraphs (a) and (b) of this subdivision only pursuant to an order
26 issued by a court of competent jurisdiction.

27 (d) A transaction hold may be terminated at any time pursuant to an
28 order issued by a court of competent jurisdiction.

29 4. Immunity. A banking institution or an employee of a banking insti-
30 tution shall be immune from criminal, civil, and administrative liabil-
31 ity for all good faith actions in relation to the application of this
32 section including any good faith determination to apply or not apply a
33 transaction hold on an account where there is reasonable basis to
34 conclude:

35 (a) that financial exploitation of a vulnerable adult may have
36 occurred, may have been attempted, or is being attempted; and

37 (b) that the placement of a transaction hold may be necessary to
38 protect a vulnerable adult's money, assets, or property from financial
39 exploitation, such immunity shall not apply to a determination not to
40 apply a transaction hold when the banking institution or employee acts
41 recklessly or engages in intentional misconduct in making the determi-
42 nation, or the determination results from a conflict of interest.

43 5. Certification program. The department may develop a financial
44 exploitation certification program for banking institutions. Upon
45 completion of the training components required by the program and after
46 establishing the necessary internal policies, procedures, and in-house
47 training programs, a banking institution shall receive from the depart-
48 ment an adult financial exploitation prevention certificate demonstrat-
49 ing that staff at such banking institution have been trained on how to
50 identify, help prevent, and report the financial exploitation of a
51 vulnerable adult. At the discretion of the superintendent, the certif-
52 ication program may be mandatory for banking institutions licensed by
53 the department.

54 6. Regulations. The superintendent may issue such rules and regu-
55 lations 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 1. Any person who shall violate section 27-3003 of this chapter shall
2 be liable to the state of New York for a civil penalty of not more than
3 two hundred fifty dollars for the first violation, not more than five
4 hundred dollars for the second violation in the same calendar year, not
5 more than one thousand dollars for the third violation in the same
6 calendar year, and not more than two thousand dollars for the fourth and
7 each subsequent violation in the same calendar year. A hearing or oppor-
8 tunity to be heard shall be provided prior to the assessment of any
9 civil penalty.

10 2. (a) The department, the department of agriculture and markets, the
11 department of health, and the attorney general are hereby authorized to
12 enforce the provisions of section 27-3003 of this chapter.

13 (b) The provisions of section 27-3003 of this chapter may also be
14 enforced by a village, town, city, or county and the local legislative
15 body thereof may adopt local laws, ordinances or regulations consistent
16 with this title providing for the enforcement of such provisions.

17 3. Any fines that are collected by the state during proceedings by the
18 state to enforce the provisions of section 27-3003 of this chapter shall
19 be paid into the environmental protection fund established pursuant to
20 section ninety-two-s of the finance law. Any fines that are collected
21 by a municipality during proceedings by the municipality to enforce such
22 provisions within the municipality shall be retained by the munici-
23 pality.

24 § 3. This act shall take effect immediately.

25 PART QQ

26 Section 1. The restore mother nature bond act is enacted to read as
27 follows:

28 ENVIRONMENTAL BOND ACT OF 2020 29 "RESTORE MOTHER NATURE"

30 Section 1. Short title.

31 2. Creation of state debt.

32 3. Bonds of the state.

33 4. Use of moneys received.

34 § 1. Short title. This act shall be known and may be cited as the
35 "environmental bond act of 2020 restore mother nature".

36 § 2. Creation of state debt. The creation of state debt in an amount
37 not exceeding in the aggregate three billion dollars (\$3,000,000,000) is
38 hereby authorized to provide moneys for the single purpose of making
39 environmental improvements that preserve, enhance, and restore New
40 York's natural resources and reduce the impact of climate change by
41 funding capital projects to: restore habitat and reduce flood risk
42 including wetland, floodplain, and stream restoration and protection,
43 acquisition of real property, enhance shoreline protection, forest pres-
44 ervation, development and improvement of fish hatcheries, and removal,
45 alteration, and right-sizing of dams, bridges, and culverts; improve
46 water quality through wastewater infrastructure improvements and
47 upgrades including green infrastructure projects that reduce stormwater
48 impacts, agricultural nutrient management, and expansion of riparian
49 buffers; protect open space and invest in associated recreational
50 infrastructure including land acquisition, development and improvement
51 of park, campground, nature center, and other state recreational facili-
52 ties; expand the use of renewable energy to mitigate climate change
53 including, but not limited to, clean energy or resiliency projects; and

1 other such projects that preserve, enhance, and restore the quality of
2 the state's environment.

3 § 3. Bonds of the state. The state comptroller is hereby authorized
4 and empowered to issue and sell bonds of the state up to the aggregate
5 amount of three billion dollars (\$3,000,000,000) for the purposes of
6 this act, subject to the provisions of article 5 of the state finance
7 law. The aggregate principal amount of such bonds shall not exceed three
8 billion dollars (\$3,000,000,000) excluding bonds issued to refund or
9 otherwise repay bonds heretofore issued for such purpose; provided,
10 however, that upon any such refunding or repayment, the total aggregate
11 principal amount of outstanding bonds may be greater than three billion
12 dollars (\$3,000,000,000) only if the present value of the aggregate debt
13 service of the refunding or repayment bonds to be issued shall not
14 exceed the present value of the aggregate debt service of the bonds to
15 be refunded or repaid. The method for calculating present value shall be
16 determined by law.

17 § 4. Use of moneys received. The moneys received by the state from the
18 sale of bonds sold pursuant to this act shall be expended pursuant to
19 appropriations for capital projects related to design, planning, site
20 acquisition, demolition, construction, reconstruction, and rehabili-
21 tation including but not limited to, projects specified in section two
22 of this act.

23 § 2. This act shall take effect immediately, provided that the
24 provisions of section one of this act shall not take effect unless and
25 until this act shall have been submitted to the people at the general
26 election to be held in November 2020 and shall have been approved by a
27 majority of all votes cast for and against it at such election. Upon
28 approval by the people, section one of this act shall take effect imme-
29 diately. The ballots to be furnished for the use of voters upon
30 submission of this act shall be in the form prescribed by the election
31 law and the proposition or question to be submitted shall be printed
32 thereon in the following form, namely "To address and combat the impact
33 of climate change and damage to the environment, the Environmental Bond
34 Act of 2020 "Restore Mother Nature" authorizes the sale of state bonds
35 up to three billion dollars to fund environmental protection, natural
36 restoration, resiliency, and clean energy projects. Shall the Environ-
37 mental Bond Act of 2020 be approved?".

38 PART RR

39 Section 1. The environmental conservation law is amended by adding a
40 new article 58 to read as follows:

41 ARTICLE 58

42 IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2020 "RESTORE MOTHER
43 NATURE"

44 Section 58-0101. Definitions.

45 58-0103. Allocation of moneys.

46 58-0105. Powers and duties.

47 58-0107. Powers and duties of a municipality.

48 58-0109. Consistency with federal tax law.

49 58-0111. Compliance with other law.

50 § 58-0101. Definitions.

51 As used in this article the following terms shall mean and include:

52 1. "Bonds" shall mean general obligation bonds issued pursuant to the
53 environmental bond act of 2020 "restore mother nature" in accordance

1 with article VII of the New York state constitution and article five of
2 the state finance law.

3 2. "Cost" means the expense of an approved project, which shall
4 include but not be limited to appraisal, surveying, planning, engineer-
5 ing and architectural services, plans and specifications, consultant and
6 legal services, site preparation, demolition, construction and other
7 direct expenses incident to such project.

8 3. "Department" shall mean the department of environmental conserva-
9 tion.

10 4. "Municipality" means a local public authority or public benefit
11 corporation, a county, city, town, village, school district, supervisory
12 district, district corporation, improvement district within a county,
13 city, town or village, or Indian nation or tribe recognized by the state
14 or the United States with a reservation wholly or partly within the
15 boundaries of New York state, or any combination thereof.

16 5. "State assistance payment" means payment of the state share of the
17 cost of projects authorized by this article to preserve, enhance,
18 restore and improve the quality of the state's environment.

19 6. "State entity" means any state department, division, agency,
20 office, public authority, or public benefit corporation.

21 § 58-0103. Allocation of moneys.

22 The moneys received by the state from the sale of bonds pursuant to
23 the environmental bond act of 2020 "restore mother nature" shall be
24 expended for project costs to: restore habitat and reduce flood risk
25 including, wetland, floodplain, and stream restoration and protection,
26 acquisition of real property, enhance shoreline protection, forest pres-
27 ervation, development and improvement of fish hatcheries, and removal,
28 alteration, and right-sizing of dams, bridges, and culverts; improve
29 water quality through wastewater infrastructure and upgrades including
30 green infrastructure projects that reduce stormwater impacts, agricul-
31 tural nutrient management and expansion of riparian buffers; protect
32 open space and invest in associated recreational infrastructure includ-
33 ing land acquisition, development and improvement of park, campground,
34 nature center, and other state recreational facilities; expand the use
35 of renewable energy to mitigate climate change, including, but not
36 limited to, clean energy or resiliency projects; and other such projects
37 that preserve, enhance, and restore the quality of the state's environ-
38 ment.

39 § 58-0105. Powers and duties.

40 In implementing the provisions of this article the department is here-
41 by authorized to:

42 1. Administer funds generated pursuant to the environmental bond act
43 of 2020 "restore mother nature".

44 2. In the name of the state, as further provided within this article,
45 contract to make, within the limitations of appropriations available
46 therefor, state assistance payments toward the cost of a project
47 approved, and to be undertaken pursuant to this article.

48 3. Approve vouchers for the payments pursuant to an approved contract.

49 4. Enter into contracts with any person, firm, corporation, not-for-
50 profit corporation, agency or other entity, private or governmental, for
51 the purpose of effectuating the provisions of this article.

52 5. Promulgate such rules and regulations and to develop such forms and
53 procedures necessary to effectuate the provisions of this article,
54 including but not limited to requirements for the form, content, and
55 submission of applications by municipalities for state financial assist-
56 ance.

1 6. Delegate to, or cooperate with, any other state entity in the
2 administration of this article.

3 7. Perform such other and further acts as may be necessary, proper or
4 desirable to carry out the provisions of this article.

5 § 58-0107. Powers and duties of a municipality.

6 A municipality shall have the power and authority to:

7 1. Undertake and carry out any project for which state assistance
8 payments pursuant to contract are received or are to be received pursu-
9 ant to this article and maintain and operate such project.

10 2. Expend money received from the state pursuant to this article for
11 costs incurred in conjunction with the approved project.

12 3. Apply for and receive moneys from the state for the purpose of
13 accomplishing projects undertaken or to be undertaken pursuant to this
14 article.

15 4. Perform such other and further acts as may be necessary, proper or
16 desirable to carry out a project or obligation, duty or function related
17 thereto.

18 § 58-0109. Consistency with federal tax law.

19 All actions undertaken pursuant to this article shall be reviewed for
20 consistency with provisions of the federal internal revenue code and
21 regulations thereunder, in accordance with procedures established in
22 connection with the issuance of any tax exempt bonds pursuant to this
23 article, to preserve the tax exempt status of such bonds.

24 § 58-0111. Compliance with other law.

25 Every recipient of funds to be made available pursuant to this article
26 shall comply with all applicable state, federal and local laws.

27 § 2. The state finance law is amended by adding a new section 97-tttt
28 to read as follows:

29 § 97-tttt. Restore mother nature bond fund. 1. There is hereby estab-
30 lished in the joint custody of the state comptroller and the commission-
31 er of taxation and finance a special fund to be known as the "restore
32 mother nature bond fund".

33 2. The state comptroller shall deposit into the restore mother nature
34 bond fund all moneys received by the state from the sale of bonds and/or
35 notes for uses eligible pursuant to section four of the environmental
36 bond act of 2020 "restore mother nature".

37 3. Moneys in the restore mother nature bond fund, following appropri-
38 ation by the legislature and allocation by the director of the budget,
39 shall be available only for reimbursement of expenditures made from
40 appropriations from the capital projects fund for the purpose of the
41 restore mother nature bond fund, as set forth in the environmental bond
42 act of 2020 "restore mother nature".

43 4. No moneys received by the state from the sale of bonds and/or notes
44 sold pursuant to the environmental bond act of 2020 "restore mother
45 nature" shall be expended for any project until funds therefor have been
46 allocated pursuant to the provisions of this section and copies of the
47 appropriate certificates of approval filed with the chair of the senate
48 finance committee, the chair of the assembly ways and means committee
49 and the state comptroller.

50 § 3. Section 61 of the state finance law is amended by adding a new
51 subdivision 32 to read as follows:

52 32. Thirty years. For the payment of "restore mother nature" projects,
53 as defined in article fifty-eight of the environmental conservation law
54 and undertaken pursuant to a chapter of the laws of two thousand twenty,
55 enacting and constituting the environmental bond act of 2020 "restore
56 mother nature". Thirty years for flood control infrastructure, other

environmental infrastructure, wetland and other habitat restoration, water quality projects, acquisition of land, including acquisition of real property, and renewable energy projects. Notwithstanding the foregoing, for the purposes of calculating annual debt service, the state comptroller shall apply a weighted average period of probable life of restore mother nature projects, including any other works or purposes to be financed with state debt. Weighted average period of probable life shall be determined by computing the sum of the products derived from multiplying the dollar value of the portion of the debt contracted for each work or purpose (or class of works or purposes) by the probable life of such work or purpose (or class of works or purposes) and dividing the resulting sum by the dollar value of the entire debt after taking into consideration any original issue premium or discount.

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

§ 5. This act shall take effect only in the event that section 1 of part QQ of a chapter of the laws of 2020, enacting the environmental bond act of 2020 "restore mother nature" is submitted to the people at the general election to be held in November 2020 and is approved by a majority of all votes cast for and against it at such election. Upon such approval, this act shall take effect immediately. Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act are authorized and directed to be made and completed on or before such effective date.

PART SS

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 32 to read as follows:

TITLE 32

PRODUCT STEWARDSHIP

Section 27-3201. Definitions.

27-3203. Stewardship organization responsibilities.

27-3205. Producer responsibilities.

27-3207. Retailer and distributor responsibilities.

27-3209. Department responsibilities.

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

1 fibers or yarns or tufts attached to a backing system made of synthetic
2 or natural materials. "Carpet" includes, but is not limited to, a
3 commercial or residential broadloom carpet, modular carpet tiles, and
4 artificial turf, pad or underlayment used in conjunction with a carpet.
5 "Carpet" does not include handmade rugs, area rugs, or mats.

6 3. "Collection site" means a permanent location in the state at which
7 discarded covered products may be returned by a consumer.

8 4. "Consumer" means a person located in the state who purchases, owns,
9 leases, or uses covered products, including but not limited to an indi-
10 vidual, a business, corporation, limited partnership, not-for-profit
11 corporation, the state, a public corporation, public school, school
12 district, private or parochial school or board of cooperative educa-
13 tional services or governmental entity.

14 5. "Covered product" means carpets or mattresses.

15 6. "Discarded covered product" means covered products that are no
16 longer used for its manufactured purpose.

17 7. "Distributor" or "wholesaler" means a person who buys or otherwise
18 acquires covered products from another source and sells or offers to
19 sell a covered product to retailers in this state.

20 8. "Energy recovery" means the process by which all or a portion of
21 solid waste materials are processed or combusted in order to utilize the
22 heat content or other forms of energy derived from such solid waste
23 materials.

24 9. "Mattress" means any resilient material, or combination of materi-
25 als, that is designed to be used as a bed. Mattress shall not include:

26 a. an unattached mattress pad or mattress topper that is intended to
27 be used with, or on top of a mattress;

28 b. a crib or bassinet mattress or car bed;

29 c. juvenile products, including: a carriage, basket, dressing table,
30 stroller, playpen, infant carrier, lounge pad, crib bumper, and the pads
31 for those juvenile products;

32 d. a water bed or air mattress; or

33 e. a fold-out sofa bed or futon.

34 10. "Producer" means any person who manufactures or renovates a
35 covered product that is sold, offered for sale, or distributed in the
36 state under the manufacturer's own name or brand. "Producer" includes:

37 a. the owner of a trademark or brand under which a covered product is
38 sold, offered for sale, or distributed in this state, whether or not
39 such trademark or brand is registered in the state; and

40 b. any person who imports a covered product into the United States
41 that is sold or offered for sale in the state and that is manufactured
42 by a person who does not have a presence in the United States.

43 11. "Product" means an item sold within the state that is deemed
44 eligible by the department for inclusion in this chapter as a covered
45 product.

46 12. "Product category" means a group of similar products.

47 13. "Proprietary information" means information that is a trade secret
48 or is production, commercial or financial information, that if disclosed
49 would impair the competitive position of the submitter and would make
50 available information not otherwise publicly available.

51 14. "Recycling" means to separate, dismantle or process the materials,
52 components or commodities contained in covered products for the purpose
53 of preparing the materials, components or commodities for use or reuse
54 in new products or components. "Recycling" does not include energy
55 recovery or energy generation by means of combustion, or landfill

1 disposal of discarded covered products or discarded product component
2 materials.

3 15. "Recycling rate" means the percentage of discarded covered
4 products that is managed through recycling or reuse, as defined by this
5 title, and is computed by dividing the amount of discarded covered
6 products collected and recycled or reused by the total amount of
7 discarded covered products collected over a program year.

8 16. "Retailer" means any person who sells or offers for sale a covered
9 product to a consumer in the state.

10 17. "Reuse" means donating or selling a discarded covered product back
11 into the market for its original intended use, when the discarded
12 covered product retains its original performance characteristics and can
13 be used for its original purpose.

14 18. "Sale" or "sell" means a transfer of title to a covered product
15 for consideration, including a remote sale conducted through a sales
16 outlet, catalog, website, or similar electronic means. "Sale" or "sell"
17 includes a lease through which a covered product is provided to a
18 consumer by a producer, distributor, or retailer.

19 19. "Stewardship organization" means a nonprofit entity representing
20 covered product producers, or other designated representatives who are
21 cooperating with one another, to collectively establish and operate a
22 stewardship program for the purpose of complying with this title.

23 20. "Stewardship program" means a program financed and implemented by
24 producers, either individually, or collectively through a producer
25 responsibility organization, that provides for, but is not limited to,
26 the collection, transportation, reuse, recycling or proper management
27 through combustion or disposal, or an appropriate combination thereof,
28 of unwanted products.

29 § 27-3203. Stewardship organization responsibilities.

30 1. A stewardship organization shall be created and financed, individ-
31 ually or collectively, by carpet producers, and a mattress stewardship
32 organization shall be created and financed by mattress producers, indi-
33 vidually or collectively, to administer stewardship programs on behalf
34 of those respective producers.

35 2. On or before July first, two thousand twenty-one, a stewardship
36 organization representing the producer of a covered product must submit
37 a stewardship plan to the department on behalf of the producer and
38 receive approval of the plan.

39 3. A stewardship organization operating a stewardship program must
40 update the stewardship plan every three years, at a minimum, and submit
41 the updated plan to the department for review and approval.

42 4. The stewardship organization must notify the department within
43 thirty days of any significant changes or modifications to the plan or
44 its implementation. Within thirty days of the notification a written
45 plan amendment must be submitted to the department for review and
46 approval.

47 5. The stewardship plan shall include, at a minimum:

48 a. Certification that the stewardship program will accept for
49 collection all discarded covered products;

50 b. Contact information for each individual representing the steward-
51 ship organization, including the address of the stewardship organization
52 where the department will send any notifications and for service of
53 process, designation of a program manager responsible for administering
54 the program, a list of all producers participating in the stewardship
55 program, and contact information for each producer, including the

1 address for service of process, and the brands covered by the product
2 stewardship program;

3 c. A description of the methods by which discarded covered products
4 will be collected with no charge to any person;

5 d. An explanation of how the stewardship program will, by January
6 first, two thousand twenty-two or six months after stewardship plan
7 approval, achieve, at a minimum, a convenience standard of having at
8 least one collection site in each county of the state, and at least one
9 additional collection site for every fifty thousand residents located in
10 a municipality, that accepts covered products from consumers during
11 normal business hours; however, with respect to a city having a popu-
12 lation of one million or more, after consultation with the appropriate
13 local or regional entity responsible for the collection of solid and
14 hazardous waste, the department may otherwise establish an alternative
15 convenience standard. Convenience standards will be evaluated by the
16 department periodically and the department may require additional
17 collection locations to ensure adequate consumer convenience;

18 e. A description of how the effectiveness of the stewardship program
19 will be monitored, evaluated, and maintained;

20 f. The names and locations of collection sites, transporters, and
21 processors who will manage discarded covered products;

22 g. A description of how the discarded covered products will be safely
23 and securely transported, tracked, and handled from collection through
24 final recycling and processing;

25 h. A description of the methods to be used to reuse or recycle
26 discarded covered products to ensure that the components, to the extent
27 feasible, are transformed or remanufactured into finished products for
28 use;

29 i. A description of the methods to be used to manage or dispose of
30 discarded covered products that cannot be recycled or reused;

31 j. A description of the outreach and educational materials that must
32 be provided to consumers, retailers, collection sites, and transporters
33 of discarded covered products, and how such outreach will be evaluated
34 for effectiveness;

35 k. An up-to-date stewardship organization website and toll-free tele-
36 phone number through which a consumer can easily learn how and where to
37 recycle their discarded covered products;

38 l. An annual performance goal, as determined by the department,
39 including an estimate of the percentage of discarded covered products
40 that will be collected, reused, and recycled during each year for the
41 next three years of the stewardship plan;

42 m. An evaluation of the status of end markets for discarded covered
43 products and what, if any, additional end markets are needed to improve
44 the functioning of the programs; and

45 n. A funding mechanism that demonstrates sufficient funding to carry
46 out the plan, including the administrative, operational, and capital
47 costs of the plan.

48 6. By July first, two thousand twenty-three, and by July first of each
49 year thereafter, the stewardship organization shall submit a report to
50 the department that includes, for the previous program year, a
51 description of the stewardship program, including, but not limited to,
52 the following:

53 a. a description of the methods used to collect, transport, and proc-
54 ess discarded covered products in regions of the state;

55 b. identification of all collection sites in the state;

1 c. the weight of all discarded covered products collected and reused
2 or recycled in all regions of the state;

3 d. an evaluation of whether the performance goals and recycling rates
4 established in the stewardship plan have been achieved;

5 e. an estimated weight of discarded covered products and any component
6 materials that were collected pursuant to the stewardship plan, but not
7 recycled; and

8 f. any other information required by regulation promulgated by the
9 department.

10 7. A stewardship organization shall pay the department, the following
11 fees, which shall be adequate to cover the department's full costs of
12 administering and enforcing the stewardship program and shall not exceed
13 the amount necessary to recover costs incurred by the department in
14 connection with the administration and enforcement of the requirements
15 of this title:

16 a. an annual administrative fee to be established by the department in
17 regulations; and

18 b. a one-time fee of five thousand dollars for a plan covering an
19 individual producer, or ten thousand dollars for a plan for producers
20 acting collectively, upon submission of an initial stewardship plan.

21 § 27-3205. Producer responsibilities.

22 1. By January first, two thousand twenty-two, each producer shall,
23 individually or collectively, through a stewardship organization, imple-
24 ment and finance a statewide stewardship program that:

25 a. manages covered products by reducing its waste generation;

26 b. promotes covered product recycling and reuse or mattress recycling
27 and reuse; and

28 c. provides for negotiation and execution of agreements to collect,
29 transport, process, and market the producer's discarded covered products
30 for end-of-life recycling, reuse, or disposal.

31 2. No producer may sell or offer for sale covered products in the
32 state unless the producer is part of a stewardship organization, or
33 individually, operates a stewardship program in compliance with the
34 provisions of this title.

35 3. The stewardship program must be free to the consumer, convenient
36 and adequate to serve the needs of businesses and residents in all areas
37 of the state on an ongoing basis.

38 § 27-3207. Retailer and distributor responsibilities.

39 1. Beginning January first, two thousand twenty-three, no retailer or
40 distributor may sell or offer for sale covered products in the state
41 unless the producer of such covered product is participating in a
42 stewardship program.

43 2. Any retailer or distributor may participate, on a voluntary basis,
44 as a designated collection point pursuant to a product stewardship
45 program and in accordance with applicable law.

46 3. No retailer or distributor shall be found to be in violation of
47 this section if, on the date the covered products were ordered from the
48 producer or its agent, the producer was listed as compliant with this
49 title on the department's website.

50 § 27-3209. Department responsibilities.

51 1. Upon stewardship plan approval, the department shall post informa-
52 tion on its website about the stewardship organizations and its partic-
53 ipating producers who are in compliance with this title.

54 2. Beginning January first, two thousand twenty-two, the department
55 shall post on its website the location of all collection sites identi-

1 fied to the department by the stewardship organization in its plans and
2 annual reports.

3 3. The department shall post on its website each stewardship plan
4 approved by the department.

5 4. Within sixty days after receipt of a proposed stewardship plan or
6 plan amendment, the department shall approve or reject the plan or the
7 plan amendment. If the plan or plan amendment is approved, the depart-
8 ment shall notify the stewardship organization in writing. If the
9 department rejects the plan or plan amendment, the department shall
10 notify the stewardship organization in writing stating the reason for
11 rejecting the plan or plan amendment. A stewardship organization whose
12 plan is rejected must submit a revised plan to the department within
13 thirty days of receiving a notice of rejection.

14 5. The department shall deposit the fees collected pursuant to this
15 title into the stewardship organization fund as established pursuant to
16 section ninety-two-jj of the state finance law.

17 § 27-3211. Rules and regulations.

18 The department is authorized to promulgate any rules and regulations
19 necessary to implement this title.

20 § 27-3213. Enforcement and penalties.

21 1. Except as otherwise provided in this section, any person or entity
22 that violates any provision of or fails to perform any duty imposed
23 pursuant to this title or any rule or regulation promulgated pursuant
24 thereto, or any term or condition of any registration or permit issued
25 pursuant thereto, or any final determination or order of the commission-
26 er made pursuant to this article or article seventy-one of this chapter
27 shall be liable for a civil penalty not to exceed five hundred dollars
28 for each violation and an additional penalty of not more than five
29 hundred dollars for each day during which such violation continues.

30 2. Any retailer or distributor who violates any provision of or fails
31 to perform any duty imposed pursuant to this title or any rule or regu-
32 lation promulgated pursuant thereto, or any term or condition of any
33 registration or permit issued pursuant thereto, or any final determi-
34 nation or order of the commissioner made pursuant to this article or
35 article seventy-one of this chapter shall be liable for a civil penalty
36 not to exceed one thousand dollars for each violation and an additional
37 penalty of not more than one thousand dollars for each day during which
38 such violation continues.

39 3. a. Any producer or stewardship organization who violates any
40 provision of or fails to perform any duty imposed pursuant to this title
41 or any rule or regulation promulgated pursuant thereto, or any term or
42 condition of any registration or permit issued pursuant thereto, or any
43 final determination or order of the commissioner made pursuant to this
44 article or article seventy-one of this chapter shall be liable for a
45 civil penalty not to exceed five thousand dollars for each violation and
46 an additional penalty of not more than one thousand five hundred dollars
47 for each day during which such violation continues. For a second
48 violation committed within twelve months of a prior violation, the
49 producer or stewardship organization shall be liable for a civil penalty
50 not to exceed ten thousand dollars and an additional penalty of not more
51 than three thousand dollars for each day during which such violation
52 continues. For a third or subsequent violation committed within twelve
53 months of any prior violation, the producer or stewardship organization
54 shall be liable for a civil penalty of not to exceed twenty thousand
55 dollars and an additional penalty of six thousand dollars for each day
56 during which such violation continues.

1 b. All producers participating in a stewardship organization shall be
2 jointly and severally liable for any penalties assessed against the
3 stewardship organization pursuant to this title and article seventy-one
4 of this chapter.

5 4. Civil penalties under this section shall be assessed by the depart-
6 ment after an opportunity to be heard pursuant to the provisions of
7 section 71-1709 of this chapter, or by the court in any action or
8 proceeding pursuant to section 71-2727 of this chapter, and in addition
9 thereto, such person or entity may by similar process be enjoined from
10 continuing such violation and any permit, registration or other approval
11 issued by the department may be revoked or suspended or a pending
12 renewal denied.

13 5. The department and the attorney general are hereby authorized to
14 enforce the provisions of this title and all monies collected shall be
15 deposited to the credit of the environmental protection fund established
16 pursuant to section ninety-two-s of the state finance law.

17 § 27-3215. State preemption.

18 Jurisdiction in all matters pertaining to covered products recycling
19 is, by this title, vested exclusively in the state. Any provision of any
20 local law or ordinance, or any rule or regulation promulgated thereto,
21 governing covered product recycling shall, upon the effective date of
22 this title, be preempted; provided however, that nothing in this section
23 shall preclude a person from coordinating, for recycling or reuse, the
24 collection of covered products.

25 § 27-3217. Report and criteria for identifying additional covered
26 products or product categories.

27 1. The department shall by November first, two thousand twenty-two,
28 and biannually thereafter, publish:

29 a. a review and evaluation of the performance of existing stewardship
30 programs in the state;

31 b. legislative recommendations the department would propose to improve
32 existing stewardship programs; and

33 c. recommendations for establishing new stewardship programs. The
34 department may identify a product or product category as a candidate for
35 a stewardship program if it is determined after evaluation of each of
36 the following that:

37 (i) a stewardship program for the product or product category will
38 increase the recovery of materials for reuse and recycling and reduce
39 the need for use of virgin materials;

40 (ii) a stewardship program for the product or product category will
41 reduce the costs of waste management to local governments and taxpayers;

42 (iii) a stewardship program for the product or product category will
43 enhance energy conservation or mitigate climate change impacts;

44 (iv) a stewardship program for the product or product category will be
45 beneficial for existing and new businesses and infrastructure to manage
46 the products and lead to the development of new industries to utilize
47 the recovered materials;

48 (v) there exists public demand for a stewardship program for the prod-
49 uct or product category;

50 (vi) there is success in collecting and processing similar types of
51 products in programs in other states or countries; or

52 (vii) existing voluntary stewardship programs for the product or prod-
53 uct category in the state are not effective in achieving the policy of
54 this chapter.

55 2. At least thirty days prior to publishing the report pursuant to
56 subdivision one of this section the department shall post the report on

1 its publicly accessible website. Within that period, a person may submit
2 to the department written comments regarding the report.

3 § 27-3219. Severability.

4 The provisions of this title shall be severable and if any phrase,
5 clause, sentence or provision of this title, or the applicability there-
6 of to any person or circumstance shall be held invalid, the remainder of
7 this title and the application thereof shall not be affected thereby.

8 § 2. The state finance law is amended by adding a new section 92-jj to
9 read as follows:

10 § 92-jj. Stewardship organization fund. 1. There is hereby established
11 in the joint custody of the state comptroller and the commissioner of
12 the department of taxation and finance a special fund to be known as the
13 "stewardship organization fund".

14 2. The stewardship organization fund shall consist of all revenue
15 collected from fees pursuant to title thirty-two of article twenty-seven
16 of the environmental conservation law and any cost recoveries or other
17 revenues collected pursuant to title thirty-two of article twenty-seven
18 of the environmental conservation law, and any other monies deposited
19 into the fund pursuant to law.

20 3. Moneys of the fund, following appropriation by the legislature,
21 shall be used for execution of stewardship organization program adminis-
22 tration pursuant to title thirty-two of article twenty-seven of the
23 environmental conservation law, and expended for the purposes as set
24 forth in title thirty-two of article twenty-seven of the environmental
25 conservation law.

26 § 3. This act shall take effect immediately.

27 PART TT

28 Section 1. The opening paragraph of subdivision 1 and subdivision 2 of
29 section 24-0107 of the environmental conservation law, as amended by
30 chapter 654 of the laws of 1977, are amended to read as follows:

31 "Freshwater wetlands" means lands and waters of the state [~~as shown on~~
32 ~~the freshwater wetlands map which~~] that have an area of at least twelve
33 and four-tenths acres in size, or if less than twelve and four-tenths
34 acres are of unusual importance; and contain any or all of the follow-
35 ing:

36 2. "Freshwater wetlands map" shall mean a map [~~promulgated~~] developed
37 by the department pursuant to section 24-0301 of this article on which
38 are indicated the boundaries of any freshwater wetlands. These maps will
39 serve the purpose of educating the public on the approximate location of
40 wetlands. These maps are for educational purposes only and are not
41 controlling for purposes of determining if a wetlands permit is required
42 pursuant to section 24-0701 of this article.

43 § 2. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environ-
44 mental conservation law are REPEALED.

45 § 3. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental
46 conservation law, subdivision 6 as amended by chapter 16 of the laws of
47 2010 and subdivision 7 as amended and subdivision 8 as added by chapter
48 654 of the laws of 1977, are amended to read as follows:

49 [~~6-~~] 1. Except as provided in subdivision [~~eight~~] three of this
50 section, the commissioner shall supervise the maintenance of [~~such boun-~~
51 ~~dary~~] freshwater wetlands maps, which shall be available to the public
52 [~~for inspection and examination at the regional office of the department~~
53 ~~in which the wetlands are wholly or partly located and in the office of~~
54 ~~the clerk of each county in which each such wetland or a portion thereof~~

1 ~~is located]~~ on the department's website. The commissioner may readjust
2 the map ~~[thereafter to clarify the boundaries of the wetlands, to~~
3 ~~correct any errors on the map, to effect any additions, deletions or~~
4 ~~technical changes on the map, and to reflect changes as have occurred as~~
5 ~~a result of the granting of permits pursuant to section 24-0703 of this~~
6 ~~article, or natural changes which may have occurred through erosion,~~
7 ~~accretion, or otherwise. Notice of such readjustment shall be given in~~
8 ~~the same manner as set forth in subdivision five of this section for the~~
9 ~~promulgation of final freshwater wetlands maps. In addition, at the time~~
10 ~~notice is provided pursuant to subdivision five of this section, the~~
11 ~~commissioner shall update any digital image of the map posted on the~~
12 ~~department's website to reflect such readjustment]~~ at any time to more
13 accurately depict the approximate location of wetlands.

14 ~~[7.]~~ 2. Except as provided in subdivision ~~[eight]~~ three of this
15 section, the commissioner may, upon his own initiative, and shall, upon
16 a written request by a landowner whose land or a portion thereof may be
17 included within a wetland, or upon the written request of another person
18 or persons or an official body whose interests are shown to be affected,
19 cause to be delineated ~~[more precisely]~~ the boundary line or lines of a
20 freshwater wetland or a portion thereof. ~~[Such more precise delineation~~
21 ~~of a freshwater wetland boundary line or lines shall be of appropriate~~
22 ~~scale and sufficient clarity to permit the ready identification of indi-~~
23 ~~vidual buildings and of other major man-made structures or facilities or~~
24 ~~significant geographical features with respect to the boundary of any~~
25 ~~freshwater wetland.]~~ The commissioner shall undertake to delineate the
26 boundary of a particular wetland or wetlands, or a particular part of
27 the boundary thereof only upon a showing by the applicant therefor of
28 good cause for such ~~[more precise]~~ delineation and the establishment of
29 such ~~[more precise]~~ line.

30 ~~[8.]~~ 3. The supervision of the maintenance of any freshwater wetlands
31 map or portion thereof applicable to wetlands within the Adirondack
32 park, the readjustment and precise delineation of wetland boundary lines
33 and the other functions and duties ascribed to the commissioner by
34 subdivisions ~~[six and seven]~~ one and two of this section shall be
35 performed by the Adirondack park agency, which shall make such maps
36 available ~~[for public inspection and examination at its headquarters]~~ on
37 the agency's website.

38 § 4. Subdivisions 1 and 4 of section 24-0701 of the environmental
39 conservation law, subdivision 1 as amended by chapter 654 of the laws of
40 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979,
41 are amended to read as follows:

42 1. ~~[After issuance of the official freshwater wetlands map of the~~
43 ~~state, or of any selected section or region thereof, any]~~ Any person
44 desiring to conduct on freshwater wetlands ~~[as so designated thereon]~~
45 any of the regulated activities set forth in subdivision two of this
46 section must obtain a permit as provided in this title.

47 4. ~~[The]~~ On lands in active agricultural use, the activities of farm-
48 ers and other landowners in grazing and watering livestock, making
49 reasonable use of water resources, harvesting natural products of the
50 wetlands, selectively cutting timber, draining land or wetlands for
51 growing agricultural products and otherwise engaging in the use of
52 wetlands or other land for growing agricultural products shall be
53 excluded from regulated activities and shall not require a permit under
54 subdivision one ~~[hereof]~~ of this section, except that structures not
55 required for enhancement or maintenance of the agricultural productivity
56 of the land and any filling activities shall not be excluded hereunder,

1 and provided that the use of land [~~designated as a freshwater wetland~~
2 ~~upon the freshwater wetlands map at the effective date thereof~~] that
3 meets the definition of a freshwater wetland in section 24-0107 of this
4 article for uses other than those referred to in this subdivision shall
5 be subject to the provisions of this article.

6 § 5. Subdivision 5 of section 24-0703 of the environmental conserva-
7 tion law, as amended by section 38 of part D of chapter 60 of the laws
8 of 2012, is amended to read as follows:

9 5. [~~Prior to the promulgation of the final freshwater wetlands map in~~
10 ~~a particular area and the implementation of a freshwater wetlands~~
11 ~~protection law or ordinance, no person shall conduct, or cause to be~~
12 ~~conducted, any activity for which a permit is required under section~~
13 ~~24-0701 of this title on any freshwater wetland unless he has obtained a~~
14 ~~permit from the commissioner under this section.~~] Any person may inquire
15 of the department as to whether or not a given parcel of land [~~will be~~
16 ~~designated~~] includes a freshwater wetland subject to regulation. The
17 department shall give a definite answer in writing within [~~thirty~~] sixty
18 days of such request as to [~~whether~~] the status of such parcel [~~will or~~
19 ~~will not be so designated~~]. Provided that, in the event that weather or
20 ground conditions prevent the department from making a determination
21 within [~~thirty~~] sixty days, it may extend such period until a determi-
22 nation can be made. Such answer in the affirmative shall be reviewable;
23 such an answer in the negative shall be a complete defense to the
24 enforcement of this article as to such parcel of land. [~~The commissioner~~
25 ~~may by regulation adopted after public hearing exempt categories or~~
26 ~~classes of wetlands or individual wetlands which he determines not to be~~
27 ~~critical to the furtherance of the policies and purposes of this arti-~~
28 ~~cle.~~]

29 § 6. Subdivision 1 of section 24-0901 of the environmental conserva-
30 tion law, as added by chapter 614 of the laws of 1975, is amended to
31 read as follows:

32 1. [~~Upon completion of the freshwater wetlands map, the~~] The commis-
33 sioner shall confer with local government officials in each region in
34 which the inventory has been conducted to establish a program for the
35 protection of the freshwater wetlands of the state.

36 § 7. Subdivisions 1 and 5 of section 24-0903 of the environmental
37 conservation law, as added by chapter 614 of the laws of 1975, are
38 amended to read as follows:

39 1. [~~Upon completion of the freshwater wetlands map of the state, or of~~
40 ~~any selected section or region thereof, the~~] The commissioner shall
41 [~~proceed to~~] classify freshwater wetlands [~~so designated thereon~~] regu-
42 lated pursuant to section 24-0701 of this article according to their
43 most appropriate uses, in light of the values set forth in section
44 24-0105 of this article and the present conditions of such wetlands. The
45 commissioner shall determine what uses of such wetlands are most compat-
46 ible with the foregoing and shall prepare minimum land use regulations
47 to permit only such compatible uses. The classifications may cover
48 freshwater wetlands in more than one governmental subdivision. Permits
49 pursuant to section 24-0701 of this article are required whether or not
50 a classification has been promulgated.

51 5. Prior to the adoption of any land use regulations governing fresh-
52 water wetlands, the commissioner shall hold a public hearing thereon in
53 the area in which the affected freshwater wetlands are located, and give
54 fifteen days prior notice thereof by posting on the department's website
55 or by publication at least once in a newspaper having general circu-
56 lation in the area of the local government involved. The commissioner

1 shall promulgate the regulations within thirty days of such hearing and
2 post such order on the department's website or publish such order [~~at~~
3 ~~least once~~] in a newspaper having general circulation in the area of the
4 local government affected and make such plan available for public
5 inspection and review; such order shall not take effect until thirty
6 days after the filing thereof with the clerk of the county in which such
7 wetland is located.

8 § 8. Subdivisions 2 and 3 of section 34-0104 of the environmental
9 conservation law, as added by chapter 841 of the laws of 1981, are
10 amended to read as follows:

11 2. Upon completion of a preliminary identification of an erosion
12 hazard area, the commissioner or his designated hearing officer shall
13 hold a public hearing in a place reasonably accessible to residents of
14 the affected area in order to afford an opportunity for any person to
15 propose changes in such preliminary identification. The commissioner
16 shall [~~give notice of such hearing to each owner of record, as shown on~~
17 ~~the latest completed tax assessment rolls, of lands included within such~~
18 ~~area, and also to the chief executive officer and clerk of each local~~
19 ~~government within the boundaries of which any portion of such area may~~
20 ~~be located, by certified mail at least thirty days prior to the date set~~
21 ~~for such hearing, and shall~~] insure that a copy of the preliminary iden-
22 tification is available for public inspection at a convenient location
23 [~~in such local government~~]. The commissioner shall also cause notice of
24 such hearing to be published at least once, not more than thirty days
25 nor fewer than ten days before the date set for such hearing, in at
26 least one newspaper having general circulation in the area involved and
27 in the environmental notice publication provided for under section
28 3-0306 of this chapter.

29 3. After considering the testimony given at such hearings and the
30 potential erosion hazard in accordance with the purposes and policies of
31 this article, and after consultation with affected local governments,
32 the commissioner shall issue the final identification of the erosion
33 hazard areas. Such final identification shall not be made less than
34 sixty days from the date of the public hearing required by subdivision
35 two hereof. A copy of such final identification shall be filed in the
36 office of the clerk of each local government in which such area or any
37 portion thereof is located. Notice [~~that such final identification has~~
38 ~~been made shall be given each owner of lands included within the erosion~~
39 ~~hazard area, as such ownership is shown on the latest completed tax~~
40 ~~assessment rolls, by certified mail in any case where a notice by certi-~~
41 ~~fied mail was not sent pursuant to subdivision two of this section, and~~
42 ~~in all other cases by first class mail. Such notice~~] shall also be given
43 at such time to the chief executive officer of each local government
44 within the boundaries of which such erosion hazard area or any portion
45 thereof is located.

46 § 9. Paragraphs (a) and (b) of subdivision 8 of section 70-0117 of the
47 environmental conservation law, as added by section 1 of part AAA of
48 chapter 59 of the laws of 2009, are amended to read as follows:

49 (a) All persons required to obtain a permit from the department pursu-
50 ant to section 24-0701 of this chapter shall submit to the department an
51 application fee in an amount [~~not to exceed the following:~~

52 ~~(i) fifty dollars per application for a permit for a minor project as~~
53 ~~defined in this article or modification to any existing permit issued~~
54 ~~pursuant to section 24-0701 of this chapter;~~

~~(ii) fifty dollars per application for a permit for a residential project defined as associated with one single family dwelling and customary appurtenances thereto;~~

~~(iii) one hundred dollars per application for multiple family dwelling and customary appurtenances thereto;~~

~~(iv) two hundred dollars per application for a permit for any other project as defined in this article]~~ specified in regulations promulgated by the department.

(b) All persons required to obtain a permit from the department pursuant to section 25-0402 of this chapter shall submit to the department an application fee in an amount ~~[not to exceed the following:~~

~~(i) two hundred dollars per application for a permit for a minor project as defined in this article or modification to any existing permit issued pursuant to section 25-0402 of this chapter;~~

~~(ii) nine hundred dollars per application for a permit for a project as defined in this article]~~ specified in regulations promulgated by the department.

§ 10. Paragraph (c) of subdivision 8 of section 70-0117 of the environmental conservation law, as added by section 1 of part AAA of chapter 59 of the laws of 2009, is amended to read as follows:

(c) ~~[All fees]~~ Fees collected pursuant to ~~[this]~~ paragraph (a) of this subdivision shall be deposited [into the environmental protection fund pursuant to section ninety-two-s of the state finance law] to the credit of the conservation fund. Fees collected pursuant to paragraph (b) of this subdivision shall be deposited to the credit of the marine resources account of the conservation fund.

(d) Application fees required pursuant to this subdivision will not be required for any state department.

§ 11. The title heading of title 25 of article 71 of the environmental conservation law, as added by chapter 182 of the laws of 1975, is amended to read as follows:

ENFORCEMENT OF ARTICLE 25 AND ARTICLE 34

§ 12. Section 71-2501 of the environmental conservation law, as added by chapter 182 of the laws of 1975, is amended to read as follows:

§ 71-2501. Applicability of this title.

The provisions of this title shall be applicable to the enforcement of article twenty-five and article thirty-four.

§ 13. Subdivisions 1 and 2 of section 71-2503 of the environmental conservation law, as amended by chapter 666 of the laws of 1989, are amended to read as follows:

1. Administrative sanctions.

a. Any person who violates, disobeys or disregards any provision of article twenty-five or article thirty-four shall be liable to the people of the state for a civil penalty of not to exceed ten thousand dollars for every such violation, to be assessed, after a hearing or opportunity to be heard, by the commissioner. Each violation shall be a separate and distinct violation and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct violation. The penalty may be recovered in an action brought by the commissioner in any court of competent jurisdiction. Such civil penalty may be released or compromised by the commissioner before the matter has been referred to the attorney general; and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action commenced to recover the same may be settled

1 and discontinued by the attorney general with the consent of the commis-
2 sioner.

3 b. Upon determining that significant damage to the functions and bene-
4 fits of tidal wetlands or coastal erosion hazard areas is occurring or
5 is imminent as a result of any violation of article twenty-five or arti-
6 cle thirty-four, including but not limited to (i) activity taking place
7 requiring a permit under article twenty-five or article thirty-four but
8 for which no permit has been granted or (ii) failure on the part of a
9 permittee to adhere to permit conditions, the commissioner shall have
10 power to direct the violator to cease and desist from violating the act.
11 In such cases the violator shall be provided an opportunity to be heard
12 within ten days of receipt of the notice to cease and desist.

13 c. Following a hearing held pursuant to section 71-1709 of this arti-
14 cle, the commissioner shall have power to direct the violator to cease
15 and desist from violating the act and to restore the affected tidal
16 wetland or area immediately adjacent thereto or coastal erosion hazard
17 areas to its condition prior to the violation, insofar as that is possi-
18 ble within a reasonable time and under the supervision of the commis-
19 sioner. Any order of the commissioner shall be enforceable in an action
20 brought by the commissioner in any court of competent jurisdiction. Any
21 civil penalty or order issued by the commissioner under this subdivision
22 shall be reviewable in a proceeding under article seventy-eight of the
23 civil practice law and rules.

24 2. Criminal sanctions. Any person who violates any provision of arti-
25 cle twenty-five or article thirty-four shall, in addition, for the first
26 offense, be guilty of a violation punishable by a fine of not less than
27 five hundred nor more than five thousand dollars; for a second and each
28 subsequent offense such person shall be guilty of a misdemeanor punisha-
29 ble by a fine of not less than one thousand nor more than ten thousand
30 dollars or a term of imprisonment of not less than fifteen days nor more
31 than six months or both. In addition to or instead of these punishments,
32 any offender shall be punishable by being ordered by the court to
33 restore the affected tidal wetland or area immediately adjacent thereto
34 or coastal erosion hazard areas to its condition prior to the offense,
35 insofar as that is possible. The court shall specify a reasonable time
36 for the completion of the restoration, which shall be effected under the
37 supervision of the commissioner. Each offense shall be a separate and
38 distinct offense and, in the case of a continuing offense, each day's
39 continuance thereof shall be deemed a separate and distinct offense.

40 § 14. Section 71-2505 of the environmental conservation law, as
41 amended by chapter 249 of the laws of 1997, is amended to read as
42 follows:

43 § 71-2505. Enforcement.

44 The attorney general, on his or her own initiative or at the request
45 of the commissioner, shall prosecute persons who violate article twen-
46 ty-five or article thirty-four. In addition the attorney general, on
47 his or her own initiative or at the request of the commissioner, shall
48 have the right to recover a civil penalty of up to ten thousand dollars
49 for every violation of any provision of such [~~article~~] articles, and to
50 seek equitable relief to restrain any violation or threatened violation
51 of such [~~article~~] articles and to require the restoration of any
52 affected tidal wetland or area immediately adjacent thereto or coastal
53 erosion hazard area to its condition prior to the violation, insofar as
54 that is possible, within a reasonable time and under the supervision of
55 the commissioner. In the case of a continuing violation, each day's
56 continuance thereof shall be deemed a separate and distinct violation.

§ 15. Section 71-2507 of the environmental conservation law, as added by chapter 182 of the laws of 1975, is amended to read as follows:

§ 71-2507. Pollution of tidal wetlands or coastal erosion hazard area.

Where any tidal wetlands or coastal erosion hazard area are subject to pollution, the commissioner and attorney general shall take all appropriate action to abate the pollution. In addition, the commissioner may restrict or order cessation of solid waste disposal, deep well disposal, or liquid waste disposal where such is polluting a given area of tidal wetland or coastal erosion hazard area. Where pesticides, chemical products, or fertilizer residues are the polluting agents, the commissioner shall confer with other appropriate public officials to limit the use of such substances at their source; after appropriate consultations, the commissioner may make such rules and regulations as he deems necessary under section 3-0301 of [~~the environmental conservation law~~] this chapter.

§ 16. This act shall take effect immediately, provided, however, that sections one, two, three, four, five, six, seven, eight and nine of this act shall take effect on January 1, 2022, except that any rule or regulation necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.

PART UU

Section 1. This act enacts into law components of legislation which are necessary to implement legislation relating to the Bay Park Conveyance Project. Each component is wholly contained within a Subpart identified as Subparts A through C. The effective date for each particular provision contained within such Subpart is set forth in the last section of such Subpart. Any provision in any section contained within a Subpart, including the effective date of the Subpart, which makes a reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Subpart in which it is found. Section three of this act sets forth the general effective date of this act.

SUBPART A

Section 1. The county of Nassau, is hereby authorized, acting by and through the county legislature of such county, and the department of environmental conservation, acting by and through the commissioner of such department or his or her designee, for the purpose of constructing, operating, maintaining and repairing a sub-surface sewer main, are hereby authorized to establish (a) permanent easements upon and under the parklands described in sections four, five, seven, eight, ten and eleven of this act, and (b) temporary easements upon and under the parklands described in sections three, six, and nine of this act. Authorization for the temporary easements described in sections three, six, and nine of this act shall cease upon the completion of the construction of such sewer main, at which time the department of environmental conservation shall 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 such temporary easements. Authorization for the permanent easements described in sections four, five, seven, eight, ten and eleven of this act shall require that the department of environmental conservation restore the surface of the parklands disturbed and the

1 parklands shall continue to be used for park purposes as they were prior
2 to the establishment of the permanent easements.

3 § 2. The authorization granted in section one of this act shall be
4 effective only upon the condition that the county of Nassau dedicate an
5 amount equal to or greater than the fair market value of the permanent
6 and temporary easements being conveyed and the temporary alienation
7 pursuant to section one of this act to the acquisition of new parklands
8 and/or capital improvements to existing park and recreational facili-
9 ties.

10 § 3. TEMPORARY EASEMENT - Force main shaft construction area. Park-
11 land upon and under which a temporary easement may be established pursu-
12 ant to subdivision (b) of section one of this act is described as all
13 that certain plot, piece or parcel of land with buildings and improve-
14 ments thereon erected, situate, lying and being located at Bay Park,
15 Town of Hempstead, County of Nassau and State of New York being more
16 particularly bounded and described as follows: beginning at a point on
17 the northerly line of the Nassau County Sewage Treatment Plant property,
18 said Point of Beginning being South 68°00' East, as measured along
19 northerly line of said sewage treatment plant, 543 feet plus or minus,
20 from the intersection of the northerly line Nassau County Sewage Treat-
21 ment Plant with the westerly side of Compton Street; running thence
22 South 68°00' East, along the northerly line of said sewage treatment
23 plant, 247 feet plus or minus; thence South 07°04' West 196 feet plus or
24 minus; thence North 78°37' West 33 feet plus or minus; thence North
25 06°10' East 105 feet plus or minus; thence North 30°53' West 56 feet
26 plus or minus; thence North 64°27' West 190 feet plus or minus; thence
27 North 20°21' East 49 feet plus or minus, to the northerly line of the
28 Nassau County Sewage Treatment Plant, at the Point of Beginning.
29 Containing within said bounds 19,700 square feet plus or minus. The
30 above described temporary easement is for the construction of a thirty-
31 foot diameter access shaft. The location of said access shaft is more
32 particularly described in section four of this act. Said parcel being
33 part of property designated as Section: 42 Block: A Lots: 50, 57 on the
34 Nassau County Land and Tax Map.

35 § 4. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
36 under which a permanent easement may be established pursuant to subdivi-
37 sion (a) of section one of this act is described as all that certain
38 plot, piece or parcel of land with buildings and improvements thereon
39 erected, situate, lying and being located at Bay Park, Town of Hemp-
40 stead, County of Nassau and State of New York being more particularly
41 bounded and described as follows: a circular easement with a radius of
42 15 feet, the center of said circle being the following three (3) courses
43 from the intersection of the northerly line of the Nassau County Sewage
44 Treatment Plant with the westerly side of Compton Street: running thence
45 South 68°00' East, along the northerly line of said sewage treatment
46 plant, 581 feet plus or minus to the centerline of the permanent ease-
47 ment for a force main described in section five of this act; thence
48 South 21°34' West, along said centerline, 17 feet plus or minus; thence
49 South 14°28' West, continuing along said centerline, 1,439 feet plus or
50 minus, to the center of the herein described circular easement. Contain-
51 ing within said bound 707 square feet plus or minus. Said permanent
52 easement is for an access shaft that extends from the surface of the
53 ground to an approximate depth of 70 feet. Any permanent surface
54 improvements for cathodic protection, if necessary, would be flush with
55 the ground surface or integrated into site landscaping. Said parcel

1 being part of property designated as Section: 42 Block: A Lots: 50, 57
2 on the Nassau County Land and Tax Map.

3 § 5. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
4 under which a permanent easement may be established pursuant to subdivi-
5 sion (a) of section one of this act is described as all that certain
6 plot, piece or parcel of land with buildings and improvements thereon
7 erected, situate, lying and being located at Bay Park, Town of Hemp-
8 stead, County of Nassau and State of New York being a 20-foot wide strip
9 of land more particularly bounded and described as follows: beginning at
10 a point on the northerly line of the Nassau County Sewage Treatment
11 Plant property, said Point of Beginning being South 68°00' East, as
12 measured along northerly line of said sewage treatment plant, 571 feet
13 plus or minus, from the intersection of the northerly line Nassau County
14 Sewage Treatment Plant with the westerly side of Compton Street; running
15 thence South 68°00' East, along the northerly line of said sewage treat-
16 ment plant, 20 feet plus or minus; thence South 21°34' West 17 feet plus
17 or minus; thence South 14°28' West 1,463 feet plus or minus; thence
18 North 75°32' West 20 feet plus or minus; thence North 14°28' East 1,464
19 feet plus or minus; thence North 21°34' East 18 feet plus or minus, to
20 the northerly line of the Nassau County Sewage Treatment Plant, at the
21 Point of Beginning. Containing within said bounds 29,600 square feet.
22 The above described permanent easement is for the construction and oper-
23 ation of a six-foot diameter force main at a minimum depth of fifteen
24 feet below the ground surface. Said parcel being part of property desig-
25 nated as Section: 42 Block: A Lots: 50, 57 on the Nassau County Land and
26 Tax Map.

27 § 6. TEMPORARY EASEMENT - Force main shaft construction area. Park-
28 land upon and under which a temporary easement may be established pursu-
29 ant to subdivision (b) of section one of this act is described as all
30 that certain plot, piece or parcel of land with buildings and improve-
31 ments thereon erected, situate, lying and being located at the hamlet of
32 Wantagh, Town of Hempstead, County of Nassau and State of New York being
33 more particularly bounded and described as follows: beginning at a point
34 on the northwesterly line of the herein described temporary easement for
35 the force main shaft construction area, said Point of Beginning being
36 more particularly described as commencing at the intersection of the
37 southerly side of Sunrise Highway Street with the southeasterly side of
38 Lakeview Road; running thence southerly along the southeasterly side of
39 Lakeview Road 243 feet plus or minus, to the centerline of the permanent
40 subsurface easement for force main described in section eight of this
41 act; thence South 60°06' East, along said centerline, 25 feet plus or
42 minus, to the northwesterly line of the temporary easement for the force
43 main shaft construction area, at the Point of Beginning. Running thence
44 North 39°06' East 111 feet plus or minus; thence South 55°47' East 70
45 feet plus or minus; thence South 38°42' West 240 feet plus or minus;
46 thence North 54°11' West 72 feet plus or minus; thence North 39°06' East
47 127 feet plus or minus, to the Point of Beginning. Containing within
48 said bounds 16,900 square feet plus or minus. The above described tempo-
49 rary easement is for the construction of a thirty-foot diameter access
50 shaft. The location of said access shaft is more particularly described
51 in section seven of this act. Said parcel being part of property desig-
52 nated as Section: 56 Block: Y Lot: 259 on the Nassau County Land and Tax
53 Map.

54 § 7. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
55 under which a permanent easement may be established pursuant to subdivi-
56 sion (a) of section one of this act is described as all that certain

1 plot, piece or parcel of land with buildings and improvements thereon
2 erected, situate, lying and being located at Hamlet of Wantagh, Town of
3 Hempstead, County of Nassau and State of New York being more particular-
4 ly bounded and described as follows: a circular easement with a radius
5 of 15 feet, the center of said circle being the following two (2) cours-
6 es from the intersection of the southerly side of Sunrise Highway with
7 the southeasterly side of Lakeview Road: Southerly along the southeast-
8 erly side of Lakeview Road 243 feet plus or minus, to the centerline of
9 the permanent subsurface easement for force main, described in section
10 eight of this act; South 60°06' East, along said centerline, 51 feet
11 plus or minus, to the center of the herein described circular easement.
12 Containing within said bounds a surface area of 707 square feet plus or
13 minus. Said permanent easement is for an access shaft that extends from
14 the surface of the ground to an approximate depth of 70 feet. Any perma-
15 nent surface improvements for cathodic protection, if necessary, would
16 be flush with the ground surface or integrated into site landscaping.
17 Said parcel being part of property designated as Section: 56 Block: Y
18 Lot: 259 on the Nassau County Land and Tax Map.

19 § 8. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
20 under which a permanent easement may be established pursuant to subdivi-
21 sion (a) of section one of this act is described as all that certain
22 plot, piece or parcel of land with buildings and improvements thereon
23 erected, situate, lying and being located at the Hamlet of Wantagh, Town
24 of Hempstead, County of Nassau and State of New York being a 20-foot
25 wide strip of land more particularly bounded and described as follows:
26 beginning at a point on the southeasterly side of Lakeview Road, said
27 Point of Beginning being southwesterly 222 feet plus or minus, as meas-
28 ured along the southeasterly side of Lakeview Road from the intersection
29 of the southerly side of Sunrise Highway with the southeasterly side of
30 Lakeview Road; thence South 60°06' East 49 feet plus or minus; thence
31 South 32°15' East 1,759 feet plus or minus; thence South 16°16' West 53
32 feet plus or minus; thence North 32°15' West 1,785 feet plus or minus;
33 thence North 60°06' West 53 feet plus or minus, to the southeasterly
34 side of Lakeview Road; thence North 48°13' East, along the southeasterly
35 side of Lakeview Road, 42 feet plus or minus, to the Point of Beginning.
36 Containing within said bounds 72,900 square feet plus or minus. The
37 above described permanent easement is for the construction and operation
38 of a six-foot diameter force main at a minimum depth of fifteen feet
39 below the ground surface. Said parcel being part of property designated
40 as Section: 56 Block: Y Lots: 259 on the Nassau County Land and Tax Map.

41 § 9. TEMPORARY EASEMENT - Force main shaft construction area. Park-
42 land upon and under which a temporary easement may be established pursu-
43 ant to subdivision (b) of section one of this act is described as all
44 that certain plot, piece or parcel of land with buildings and improve-
45 ments thereon erected, situate, lying and being located at the hamlet of
46 Wantagh, Town of Hempstead, County of Nassau and State of New York being
47 more particularly bounded and described as follows: beginning at a point
48 on the northerly line of the herein described temporary easement for the
49 force main shaft construction area, said Point of Beginning being more
50 particularly described as commencing at the intersection of the souther-
51 ly side of Byron Street with the easterly side of Wantagh Parkway;
52 running thence southerly along the easterly side of Wantagh Parkway 319
53 feet plus or minus, to the centerline of the permanent subsurface ease-
54 ment for force main, described in section eleven of this act; thence
55 South 19°15' East, along said centerline, 257 feet plus or minus, to the
56 northerly line of the temporary easement for the force main shaft

1 construction area, at the Point of Beginning. Running thence North
2 87°25' East 122 feet plus or minus; thence south 33°56' East 68 feet
3 plus or minus; thence South 04°43' East 54 feet plus or minus; thence
4 South 86°38' West 78 feet plus or minus; thence South 02°20' East 83
5 feet plus or minus; thence South 47°04' West 103 feet plus or minus;
6 thence South 86°22' West 28 feet plus or minus; thence North 08°39' West
7 264 feet plus or minus; thence North 87°25' East 53 feet plus or minus,
8 to the Point of Beginning. Containing within said bounds 36,500 square
9 feet plus or minus. The above described temporary easement is for the
10 construction of a thirty-foot diameter access shaft. The location of
11 said access shaft is more particularly described in section ten of this
12 act. Said parcel being part of property designated as Section: 63 Block:
13 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County
14 Land and Tax Map.

15 § 10. PERMANENT SUBSURFACE EASEMENT - Access shaft. Parkland upon and
16 under which a permanent easement may be established pursuant to subdivi-
17 sion (a) of section one of this act is described as all that certain
18 plot, piece or parcel of land with buildings and improvements thereon
19 erected, situate, lying and being located at Hamlet of Wantagh, Town of
20 Hempstead, County of Nassau and State of New York being more particular-
21 ly bounded and described as follows: a circular easement with a radius
22 of 15 feet, the center of said circle being the following two (2) cours-
23 es from the intersection of the southerly side of Byron Street with the
24 easterly side of Wantagh Parkway: Southerly along the easterly side of
25 Wantagh Parkway 319 feet plus or minus, to the centerline of the perma-
26 nent subsurface easement for force main, described in section eleven of
27 this act; thence South 19°15' East, along said centerline, 315 feet plus
28 or minus, to the center of the herein described circular easement.
29 Containing within said bounds a surface area of 707 square feet plus or
30 minus. Said permanent easement is for an access shaft that extends from
31 the surface of the ground to an approximate depth of 70 feet. Any perma-
32 nent surface improvements for cathodic protection, if necessary, would
33 be flush with the ground surface or integrated into site landscaping.
34 Said parcel being part of property designated as Section: 63 Block: 261
35 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land
36 and Tax Map.

37 § 11. PERMANENT SUBSURFACE EASEMENT - Force main. Parkland upon and
38 under which a permanent easement may be established pursuant to subdivi-
39 sion (a) of section one of this act is described as all that certain
40 plot, piece or parcel of land with buildings and improvements thereon
41 erected, situate, lying and being located at the Hamlet of Wantagh, Town
42 of Hempstead, County of Nassau and State of New York being a 20-foot
43 wide strip of land more particularly bounded and described as follows:
44 beginning at a point on the easterly side of Wantagh Parkway, said Point
45 of Beginning being southerly 285 feet plus or minus, as measured along
46 the easterly side of Wantagh Parkway from the intersection of the south-
47 erly side of Byron Street with the easterly side of Wantagh Parkway;
48 running thence South 19°15' East 349 feet plus or minus; thence South
49 02°17' East 1,882 feet plus or minus; thence South 09°25' East 1,202
50 feet plus or minus; thence South 80°35' West 20 feet plus or minus;
51 thence North 09°25' West 1,203 feet plus or minus; thence North 02°17'
52 West 1,880 feet plus or minus; thence North 19°15' West 281 feet plus or
53 minus, to the easterly side of Wantagh Parkway; thence North 02°09'
54 West, along the easterly side of Wantagh Parkway, 68 feet plus or minus,
55 to the Point of Beginning. Containing within said bounds 68,000 square
56 feet plus or minus. The above described permanent easement is for the

1 construction and operation of a six-foot diameter force main at a mini-
2 mum depth of fifteen feet below the ground surface. Said parcel being
3 part of property designated as Section: 63 Block: 261 Lots: 765G, 818A
4 (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

5 § 12. In the event that the county of Nassau received any funding
6 support or assistance from the federal government for the purchase,
7 maintenance, or improvement of the parklands set forth in sections three
8 through eleven of this act, the discontinuance and alienation of such
9 parklands authorized by the provisions of this act shall not occur until
10 the county of Nassau has complied with any applicable federal require-
11 ments pertaining to the alienation or conversion of parklands, including
12 satisfying the secretary of the interior that the alienation or conver-
13 sion complies with all conditions which the secretary of the interior
14 deems necessary to assure the substitution of other lands shall be
15 equivalent in fair market value and usefulness to the lands being alien-
16 ated or converted.

17 § 13. This act shall take effect immediately.

18 SUBPART B

19 Section 1. The village of East Rockaway, in the county of Nassau, is
20 hereby authorized, acting by and through the village board of such
21 village, and the department of environmental conservation, acting by and
22 through the commissioner of such department or his or her designee, for
23 the purpose of constructing, operating, maintaining and repairing a
24 sub-surface sewer main, are hereby authorized to establish (a) permanent
25 easements upon and under the parklands described in sections four and
26 five of this act, and (b) a temporary easement upon and under the park-
27 lands described in section three of this act. Authorization for the
28 temporary easement described in section three of this act shall cease
29 upon the completion of the construction of the sewer main, at which time
30 the department of environmental conservation shall restore the surface
31 of the parklands disturbed and the parklands shall continue to be used
32 for park purposes as they were prior to the grant of the temporary ease-
33 ment. Authorization for the permanent easements described in sections
34 four and five of this act shall require that the department of environ-
35 mental conservation restore the surface of the parklands disturbed and
36 the parklands shall continue to be used for park purposes as they were
37 prior to the establishment of the permanent easements.

38 § 2. The authorization provided in section one of this act shall be
39 effective only upon the condition that the village of East Rockaway
40 dedicate an amount equal to or greater than the fair market value of the
41 permanent and temporary easements being conveyed and the temporary
42 alienation pursuant to section one of this act to the acquisition of new
43 parklands and/or capital improvements to existing park and recreational
44 facilities within the Village of East Rockaway.

45 § 3. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
46 land upon and under which a temporary easement may be established pursu-
47 ant to subdivision (b) of section one of this act is described as
48 follows: all that certain plot, piece or parcel of land with buildings
49 and improvements thereon erected, situate, lying and being located at
50 Incorporated Village of East Rockaway, and the Hamlet of Oceanside, Town
51 of Hempstead, County of Nassau and State of New York being more partic-
52 ularly bounded and described as follows: beginning at a point on the
53 westerly line of the herein described temporary easement for the force
54 main shaft construction area, said Point of Beginning being more partic-

ularly described as commencing at the intersection of the northeasterly side of Long Island Railroad right-of-way with the easterly side of Ocean Avenue; running thence North 12°34' East, along the easterly side of Ocean Avenue, 92 feet plus or minus, to the northerly line of property designated as Section 38 Block E Lot 14, on the Nassau County Land and Tax Map; thence South 74°46' East, partly along said northerly line, 206 feet plus or minus, to the westerly line of the temporary easement, at the Point of Beginning. Running thence North 15°34' East 49 feet plus or minus; thence South 67°33' East 238 feet plus or minus; thence South 07°07' West 31 feet plus or minus; thence South 86°06' West 161 feet plus or minus; thence South 64°59' West 117 feet plus or minus; thence North 15°34' East 140 feet plus or minus, to the Point of Beginning. Containing within said bounds 23,000 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: E, Lots: 12, 14, 21A, 21B 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 East Rockaway, and the Hamlet of Oceanside, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: a circular easement with a radius of 15 feet, the center of said circle being the following three (3) courses from the intersection of the northeasterly side of Long Island Railroad right-of-way with the easterly side of Ocean Avenue; North 12°34' East, along the easterly side of Ocean Avenue, 92 feet plus or minus, to the northerly line of property designated as Section 38 Block E Lot 14 on the Nassau County Land and Tax Map; South 74°46' East, partly along the said northerly line, 333 feet plus or minus, to the centerline of the subsurface easement for force main described in section five of this act; thence South 19°04' West, along said centerline, 16 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: E, Lots: 12, 14, 21A, 21B on the Nassau County Land and Tax Map.

§ 5. 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 Hamlet of Oceanside, 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 westerly line of the herein described permanent subsurface easement, said Point of Beginning being more particularly described as commencing at the intersection of the northeasterly side of Long Island Railroad right-of-way with the easterly side of Ocean Avenue; running thence North 12°34' East, along the easterly side of Ocean Avenue, 92 feet plus or minus, to the north-

erly line of property designated as Section 38 Block E Lot 14 on the Nassau County Land and Tax Map; thence South 74°46' East, partly along the said northerly line, 323 feet plus or minus, to the westerly line of the permanent easement, at the Point of Beginning. Running thence North 19°04' East 73 feet plus or minus, to the northerly line of property designated as Section 38 Block E Lot 21A on the Nassau County Land and Tax Map; thence South 60°10' East, along said northerly line, 20 feet plus or minus; thence South 19°04' West 82 feet plus or minus; thence South 15°40' East 116 feet plus or minus, to the south line of property designated as Section 38 Block E Lot 21A on the Nassau County Land and Tax Map; thence North 88°09' West 21 feet plus or minus; thence North 15°40' West 116 feet plus or minus; thence North 19°04' East 19 feet plus or minus, to the Point of Beginning. Containing within said bounds 4,100 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: E, Lots: 12, 14, 21A, 21B on the Nassau County Land and Tax Map.

§ 6. In the event that the village of East Rockaway received any funding support or assistance from the federal government for the purchase, maintenance, or improvement of the parklands set forth in sections three through five of this act, the discontinuance and alienation of such parklands authorized by the provisions of this act shall not occur until the village of East Rockaway has complied with any applicable federal requirements pertaining to the alienation or conversion of parklands, including satisfying the secretary of the interior that the alienation or conversion complies with all conditions which the secretary of the interior deems necessary to assure the substitution of other lands shall be equivalent in fair market value and usefulness to the lands being alienated or converted.

§ 7. This act shall take effect immediately.

SUBPART C

Section 1. The village of Rockville Centre, in the county of Nassau, acting by and through the board of trustees of such village, and the department of environmental conservation, acting by and through the commissioner of such department or his or her designee, for the purpose of constructing, operating, maintaining and repairing a sub-surface sewer main, are hereby authorized to establish (a) permanent easements upon and under the parklands described in sections three, four and six of this act, and (b) temporary easements upon and under the parklands described in sections five and seven of this act. Authorization for the temporary easements described in sections five and seven of this act shall cease upon the completion of the construction of the sewer main, at which time the department of environmental conservation shall restore the surface of the parklands disturbed and the parklands shall continue 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

1 dedicate an amount equal to or greater than the fair market value of the
2 permanent and temporary easements being conveyed and the temporary
3 alienation pursuant to section one of this act to the acquisition of new
4 parklands and/or capital improvements to existing park and recreational
5 facilities within the village of Rockville Centre.

6 § 3. PERMANENT SUBSURFACE EASEMENT - Force Main. 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 Incorporated Village of
11 East Rockaway, and the Incorporated Village of Rockville Centre, Town of
12 Hempstead, County of Nassau and State of New York, being a 20-foot wide
13 strip of land more particularly bounded and described as follows: the
14 Point of Beginning being at the intersection of the northerly side of
15 Mill River Avenue with the easterly side of Riverside Road; running
16 thence northerly along the easterly side of Riverside Road 346 feet plus
17 or minus; thence South 13°01' West 346 feet plus or minus, to the north-
18 erly side of Mill River Avenue; thence westerly along the northerly side
19 of Mill River Avenue, 17 feet plus or minus, to the easterly side of
20 Riverside Road, at the Point of Beginning. Containing within said bounds
21 3,100 square feet plus or minus. The above described permanent easement
22 is for the construction and operation of a six-foot diameter force main
23 at a minimum depth of fifteen feet below the ground surface. Said parcel
24 being part of property designated as Section: 38 Block: 136 Lots: 231 on
25 the Nassau County Land and Tax Map.

26 § 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and
27 under which a permanent easement may be established pursuant to subdivi-
28 sion (a) of section one of this act is described as all that certain
29 plot, piece or parcel of land with buildings and improvements thereon
30 erected, situate, lying and being located at Incorporated Village of
31 Rockville Centre, Incorporated Village of East Rockaway, and Incorpo-
32 rated Village of Lynbrook, Town of Hempstead, County of Nassau and State
33 of New York being more particularly bounded and described as a circular
34 easement with a radius of 15 feet, the center of said circle being the
35 following two (2) courses from the intersection of the northerly side of
36 Park Avenue with the easterly side of Oxford Road: Easterly along the
37 northerly side of Park Avenue, 203 feet plus or minus, to the centerline
38 of the permanent subsurface easement for force main described in section
39 six of this act; North 13°01' East, along said centerline, 953 feet plus
40 or minus, to the center of the herein described circular easement.
41 Containing within said bounds a surface area of 707 square feet plus or
42 minus. Said permanent easement is for an access shaft that extends from
43 the surface of the ground to an approximate depth of 70 feet. Any perma-
44 nent surface improvements for cathodic protection, if necessary, would
45 be flush with the ground surface or integrated into site landscaping.
46 Said parcel being part of property designated as Section: 38 Block: F
47 Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on
48 the Nassau County Land and Tax Map.

49 § 5. 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 Incorporated
54 Village of Rockville Centre, Incorporated Village of East Rockaway, and
55 Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau
56 and State of New York being more particularly bounded and described as

1 follows: Beginning at a point on the southerly side of the herein
2 described temporary easement for the force main shaft construction area,
3 said Point of Beginning being more particularly described as commencing
4 at the intersection of the northerly side of Park Avenue with the east-
5 erly side of Oxford Road; running thence easterly along the northerly
6 side of Park Avenue, 203 feet plus or minus, to the centerline of the
7 permanent subsurface easement for force main described in section six of
8 this act; thence North 13°01' East, along said centerline, 920 feet plus
9 or minus, to the southerly line of the temporary easement, at the Point
10 of Beginning. Running thence North 76°19' West 136 feet plus or minus,
11 to the easterly terminus of Merton Avenue (unopened); thence North
12 76°19' West, through the unopened part of Merton Avenue, 48 feet plus or
13 minus; thence North 14°49' East 5' feet plus or minus, to the northerly
14 side of Merton Avenue; thence North 14°49' East 27' feet plus or minus;
15 thence South 76°29' East 66 feet plus or minus; thence North 36°47' East
16 61 feet plus or minus; thence North 78°41' East 145 feet plus or minus;
17 thence South 65°54' East 46 feet plus or minus; thence South 29°39' West
18 147 feet plus or minus; thence North 76°19' West 42 feet plus or minus,
19 to the Point of Beginning. Containing within said bounds 22,800 square
20 feet plus or minus. The above described temporary easement is for the
21 construction of a thirty-foot diameter access shaft. The location of
22 said access shaft is more particularly described in section four of this
23 act. Said parcel being part of property designated as Section: 38 Block:
24 F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C
25 on the Nassau County Land and Tax Map.

26 § 6. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and
27 under which a permanent easement may be established pursuant to subdivi-
28 sion (a) of section one of this act is described as all that certain
29 plot, piece or parcel of land with buildings and improvements thereon
30 erected, situate, lying and being located at Incorporated Village of
31 Rockville Centre, Incorporated Village of East Rockaway, and Incorpo-
32 rated Village of Lynbrook, Town of Hempstead, County of Nassau and State
33 of New York being a 20-foot wide strip of land more particularly bounded
34 and described as follows: beginning at a point on the northerly side of
35 Park Avenue, said Point of Beginning 193 feet plus or minus easterly, as
36 measured along the northerly side of Park Avenue from the intersection
37 of the northerly side of Park Avenue with the easterly side of Oxford
38 Road; running thence North 13°01' East 956 feet plus or minus; thence
39 North 44°00' East 446 feet plus or minus, to the northeasterly line of
40 property designated as Section 38 Block F Lot 50F, on the Nassau County
41 Land and Tax Map; thence South 53°10' East, along said northeasterly
42 line, 20 feet plus or minus; thence South 44°00' West 443 feet plus or
43 minus; thence South 13°01' West 950 feet plus or minus, to the northerly
44 side of Park Avenue; thence North 79°36' West, along said northerly
45 side, 20 feet plus or minus to the Point of Beginning; containing within
46 said bounds 28,000 square feet plus or minus. The above described perma-
47 nent easement is for the construction and operation of a six-foot diam-
48 eter force main at a minimum depth of fifteen feet below the ground
49 surface. Said parcel being part of property designated as Section: 38
50 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A,
51 50B, 50C on the Nassau County Land and Tax Map.

52 § 7. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Park-
53 land upon and under which a temporary easement may be established pursu-
54 ant to subdivision (b) of section one of this act is described as all
55 that certain plot, piece or parcel of land with buildings and improve-
56 ments thereon erected, situate, lying and being located at Incorporated

1 Village of Rockville Centre, Town of Hempstead, County of Nassau and
2 State of New York being more particularly bounded and described as
3 follows: beginning at a point on the northerly side of Sunrise Highway
4 (New York State Route 27A), said Point of Beginning being distant 254
5 feet plus or minus westerly as measured along the northerly side of
6 Sunrise Highway from the intersection of the northerly side of Sunrise
7 Highway with the westerly side of Forest Avenue; running thence North
8 $86^{\circ}15'$ West, along the northerly side of Sunrise Highway, 175 feet plus
9 or minus; thence South $68^{\circ}26'$ West, continuing along the northerly side
10 of Sunrise Highway, 111 feet plus or minus; thence North $14^{\circ}47'$ West 162
11 feet plus or minus, to the southerly side of the Long Island Rail Road
12 right-of-way; thence South $86^{\circ}59'$ East, along the southerly side of the
13 Long Island Rail Road, 479 feet plus or minus; thence South $01^{\circ}59'$ West
14 75 feet plus or minus, to the northerly side of the travelled way of
15 Sunrise Highway, then 160 feet plus or minus along the arc or a circular
16 curve to the left that has a radius of 850 feet and a chord that bears
17 South $80^{\circ}03'$ West 160 feet plus or minus to the Point of Beginning.
18 Containing within said bounds 50,300 square feet plus or minus. The
19 above described temporary easement is necessary for the construction of
20 temporary access to the aqueduct below Sunrise Highway area. Said parcel
21 being part of property designated as Section: 38 Block: 291 Lot: 17 on
22 the Nassau County Land and Tax Map.

23 § 8. In the event that the village of Rockville Centre received any
24 funding support or assistance from the federal government for the
25 purchase, maintenance, or improvement of the parklands set forth in
26 sections three through seven of this act, the discontinuance and alien-
27 ation of such parklands authorized by the provisions of this act shall
28 not occur until the village of Rockville Centre has complied with any
29 applicable federal requirements pertaining to the alienation or conver-
30 sion of parklands, including satisfying the secretary of the interior
31 that the alienation or conversion complies with all conditions which the
32 secretary of the interior deems necessary to assure the substitution of
33 other lands shall be equivalent in fair market value and usefulness to
34 the lands being alienated or converted.

35 § 9. This act shall take effect immediately.

36 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
37 sion, section, subpart or part of this act shall be adjudged by a court
38 of competent jurisdiction to be invalid, such judgment shall not affect,
39 impair, or invalidate the remainder thereof, but shall be confined in
40 its operation to the clause, sentence, paragraph, subdivision, section,
41 subpart or part thereof directly involved in the controversy in which
42 such judgment shall have been rendered. It is hereby declared to be the
43 intent of the legislature that this act would have been enacted even if
44 such invalid provisions had not been included herein.

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

48 PART VV

49 Section 1. Subdivision 13 of section 23-0101 of the environmental
50 conservation law, as amended by chapter 846 of the laws of 1981, is
51 amended and four new subdivisions 21, 22, 23, and 24 are added to read
52 as follows:

53 13. "Plug and abandon" means the plugging, and replugging if neces-
54 sary, and abandonment of a well or well bore including the placing of

1 all bridges, plugs, and fluids therein and the restoration and reclama-
2 tion of the surface of affected land in the immediate vicinity to a
3 reasonable condition consistent with the adjacent terrain unless such
4 restoration and reclamation of the surface is waived by the landowner
5 and approved by the department.

6 21. "Abandoned" means wells or affected land regulated pursuant to
7 titles 1, 3, 5, 7, 11, 13 and 19 of this article for which the responsi-
8 ble owner or operator neglects or refuses to comply with its statutory
9 or regulatory obligations and responsibilities related to such wells or
10 affected land, after notice and as determined by the department.

11 22. "Affected land" means land or lands in the immediate vicinity of
12 wells, including well pads and access roads, that are disturbed or
13 impacted, or potentially disturbed or impacted, by activities regulated
14 pursuant to titles 1, 3, 5, 7, 11, 13 and 19 of this article.

15 23. "Orphaned" means wells or affected land regulated pursuant to
16 titles 1, 3, 5, 7, 9, 11, 13 and 19 of this article for which no respon-
17 sible owner or operator exists or can be reasonably found, as determined
18 by the department.

19 24. "Well" and "well bore" means an existing or proposed hole, drilled
20 or constructed, that is cased, uncased or both, for the purpose of
21 producing oil or gas or both, or for the purpose of a storage, solution
22 mining, injection, monitoring, stratigraphic, brine disposal or geother-
23 mal well regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of
24 this article.

25 § 2. Subdivision 8 of section 23-0305 of the environmental conserva-
26 tion law, as added by chapter 846 of the laws of 1981, paragraph e as
27 amended by chapter 386 of the laws of 2005, paragraph f as amended by
28 chapter 721 of the laws of 1989, and paragraph k as added by chapter 891
29 of the laws of 1984, is amended to read as follows:

30 8. With respect to oil pools or fields ~~[and]~~, natural gas pools or
31 fields, underground gas storage reservoirs, and wells and their affected
32 land regulated pursuant to titles one, three, five, seven, nine, eleven,
33 thirteen, and nineteen of this article, the department shall have power
34 to:

35 a. Make such investigations as it deems proper to determine whether
36 waste exists or is imminent.

37 b. Require identification of ownership of producing leases, tanks,
38 plants, structures and facilities for the transportation and refining of
39 oil and gas.

40 c. Classify and reclassify wells or affected land as abandoned or
41 orphaned, pools as oil or gas pools, or wells as oil ~~[or]~~ gas,
42 injection, monitoring, or underground storage wells, and require iden-
43 tification of wells as an oil, gas, injection, monitoring, or under-
44 ground storage well, including the delineation of boundaries for
45 purposes material to the interpretation or administration of this arti-
46 cle.

47 d. Require the drilling, casing, operation, plugging and replugging of
48 wells and reclamation of surrounding land in accordance with rules and
49 regulations of the department in such manner as to prevent or remedy the
50 following, including but not limited to: the escape of oil, gas, brine
51 or water out of one stratum into another; the intrusion of water into
52 oil or gas strata other than during enhanced recovery operations; the
53 pollution of fresh water supplies by oil, gas, salt water or other
54 contaminants; and blowouts, cavings, seepages and fires.

55 e. Enter, take temporary possession of, repair, plug or replug any
56 abandoned or orphaned well as provided in the rules and regulations,

1 whenever any owner or operator neglects or refuses to comply with such
2 rules and regulations. Such repairing, plugging or replugging by the
3 department shall be at the expense of the owner or operator whose duty
4 it may be to repair or plug the well and who shall hold harmless the
5 state of New York for all accounts, damages, costs and judgments arising
6 from the repairing, plugging or replugging of the well and the surface
7 restoration of the affected land. Primary liability for the expense of
8 such repairing, plugging or replugging and first recourse for the recovery
9 thereof shall be to the operator unless a contract for the
10 production, development, exploration or other working of the well, to
11 which the lessor or other grantor of the oil and gas rights is a party,
12 shall place such liability on the owner or on the owner of another
13 interest in the land on which the well is situated. When an operator
14 violates any provision of this article, any rule or regulation promul-
15 gated thereunder, or any order issued pursuant thereto in reference to
16 repairing, plugging or replugging an abandoned or orphaned well, the
17 operator may not transfer the operator's responsibility therefor by
18 surrendering the lease. Prior to the commencement of drilling of any
19 well, the operator shall be required to furnish to the department, and
20 continuously maintain, a bond acceptable to it conditioned upon the
21 performance of said operator's plugging responsibilities with respect to
22 said well. Upon the approval of the department, in lieu of such bond,
23 the operator may deposit cash or negotiable bonds of the United States
24 Government of like amount in an escrow account conditioned upon the
25 performance of said operator's plugging responsibilities with respect to
26 said well. Any interest accruing as a result of the aforementioned
27 escrow deposit shall be the exclusive property of the operator. The
28 aforementioned bonding requirements shall remain the obligation of the
29 original operator regardless of changes in operators unless a subsequent
30 operator has furnished the appropriate bond or substitute as herein
31 provided acceptable to the department and approval for the transfer of
32 the well operatorship, which includes plugging and surface restoration
33 responsibilities, to the subsequent operator has been granted by the
34 department. The failure of any operator to maintain a bond or other
35 financial security as prescribed herein shall be deemed a breach of
36 plugging and surface restoration responsibilities and entitle the
37 department to claim the proceeds of the bond or other financial security.
38 The cost of repairing, plugging or replugging any well, where such
39 action is necessary or incident to the commencing or carrying on of
40 storage operations pursuant to section 23-1103 or 23-1301 shall be borne
41 by the operator of the storage facility.

42 f. Require that every person who produces, sells, purchases, acquires,
43 stores or injects oil or gas and associated fluids and every person who
44 transports oil or gas in this state shall keep and maintain complete and
45 accurate records of the quantities thereof. Quantities of associated
46 fluids injected or produced may be reported as estimated volumes. True
47 copies or duplicates shall be kept or made available for examination
48 within this state by the department or its agents at all reasonable
49 times and every such person shall file with the department such reports
50 concerning production, sales, purchases, acquisitions, injection, trans-
51 portation or storage on a form provided by the department or approved by
52 the department prior to submittal.

53 g. In addition to the powers provided for in titles 1, 3, 5 and 13 of
54 article 71, order an immediate suspension of drilling or production
55 operations whenever such operations are being carried on in violation of
56 this article or any rule or regulation promulgated thereunder or order

1 issued pursuant thereto. Any order issued pursuant to this paragraph may
2 be reviewed upon application of an aggrieved party by means of an order
3 to show cause which order shall be issued by any justice of the supreme
4 court in the judicial district in which any order applies and shall be
5 returnable on the third succeeding business day following the issuance
6 of such order. Service of such show cause order shall be made upon the
7 regional office of the department for the region in which such order
8 applies, and upon the attorney general by delivery of such order to an
9 assistant attorney general at an office of the attorney general in the
10 county in which venue of the proceeding is designated, or if there is no
11 office of the attorney general within such county, at the office of the
12 attorney general nearest such county. Except as hereinabove specified,
13 the proceeding to review an order under this paragraph shall be governed
14 by article seventy-eight of the civil practice law and rules.

15 h. Require the immediate reporting of any non-routine incident includ-
16 ing but not limited to casing and drill pipe failures, casing cement
17 failures, fishing jobs, fires, seepages, blowouts and other incidents
18 during drilling, completion, producing, plugging or replugging oper-
19 ations that may affect the health, safety, welfare or property of any
20 person. The department may require the operator, or any agent thereof,
21 to record any data which the department believes may be of subsequent
22 use for adequate evaluation of a non-routine incident.

23 i. Require the taking and making of well logs, well samples, direc-
24 tional surveys and reports on well locations and elevations, drilling
25 and production, and further require their filing pursuant to the
26 provisions of this article. Upon the request of the state geologist, the
27 department shall cause such duplicate samples or copies of records and
28 reports as may be required pursuant to this article to be furnished to
29 him.

30 j. Give notice to persons engaged in underground mining operations of
31 the commencement of any phase of oil or gas well operations which may
32 affect the safety of such underground mining operations or of the mining
33 properties involved. Rules and regulations promulgated under this arti-
34 cle shall specify the distance from underground mining operations within
35 which such notice shall be given and shall contain such other provisions
36 as in the judgment of the department shall be necessary in the interest
37 of safety. The department shall not be required to furnish any notice
38 required by this paragraph unless the person or persons engaged in
39 underground mining operations or having rights in mining properties have
40 notified the department of the existence and location of such under-
41 ground mining operations or properties.

42 k. (1) Except as to production of gas from lands under the waters of
43 Lake Erie, in order to satisfy the financial security requirements
44 contained in paragraph e of this subdivision for wells [~~less than six~~
45 ~~thousand feet in depth~~] for which the department [~~either~~] on or after
46 October first, nineteen hundred sixty-three shall have issued or shall
47 issue permits to drill, deepen, convert or plug back such wells or, on
48 or after June fifth, nineteen hundred seventy-three, shall have issued
49 acknowledgements of notices of intention to drill such wells or, for all
50 wells subject to this article for which requests for transfer of well
51 operatorship, which includes plugging and surface restoration responsi-
52 bilities, are approved by the department on or after the effective date
53 of the chapter of the laws of two thousand twenty that amended this
54 paragraph, without any way affecting any obligations to plug such wells,
55 the operator shall provide a bond or other financial security acceptable
56 to the department [~~in the following amount:~~]

~~(i) for wells less than two thousand five hundred feet in depth:~~

~~(a) twenty five hundred dollars per well, provided that the operator shall not be required to provide financial security under this item exceeding twenty five thousand dollars for up to twenty five wells;~~

~~(b) for twenty six to fifty wells, twenty five thousand dollars, plus twenty five hundred 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 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 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 all wells ~~[greater than six thousand feet in depth]~~ that require financial security, the operator ~~[may be required to]~~ shall provide ~~[additional]~~ the department with financial security consistent with criteria contained in rules and regulations ~~[to be adopted], and any subsequent rules and regulations adopted by the department~~ to implement this ~~[subparagraph]~~ article. The department is authorized to adopt rules and regulations determining the amount, type, conditions, and terms of the financial security.

§ 3. Subdivision 9 of section 23-0305 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, paragraph d as amended by chapter 721 of the laws of 1989, paragraph e as amended by chapter 386 of the laws of 2005, and paragraph f as added by chapter 891 of the laws of 1984, is amended to read as follows:

9. With respect to solution mining areas the department shall have the power to:

a. Require identification of ownership of producing leases and solution mining equipment such as structures, tanks, gathering systems and facilities for the transportation of salt brine.

1 a-1. Classify and reclassify wells or affected land as abandoned or
2 orphaned, or wells or unrestored lands regulated pursuant to titles 1,
3 3, 5, 7, 9, 11, 13, and 19 of this article, and require well identifica-
4 tion as a solution mining well or monitoring well.

5 b. Require the drilling, casing, operation and plugging of wells in
6 accordance with rules and regulations of the department in such a manner
7 as to prevent the loss or escape of oil or gas reserves to the surface
8 or to other strata; the intrusion of brine or water into commercial oil
9 or gas reserves; the pollution of fresh water supplies by oil, gas or
10 salt water, and to facilitate the efficient use of ground and surface
11 waters in solution mining.

12 c. Give notice to persons engaging in underground mining operations of
13 the commencing of any phase of solution mining well operations which may
14 affect the safety of such underground mining operations or of the mining
15 properties involved. Rules and regulations of the department adopted
16 pursuant hereto shall specify the distance from such underground mining
17 operations within which such notice shall be given and shall contain
18 such other provisions as in the judgment of the department shall be
19 necessary in the interest of safety. The department shall not be
20 required to furnish any notice pursuant hereto unless the person or
21 persons engaged in underground mining operations or having rights in
22 mining properties have notified the department of the existence and
23 location of such underground mining operations or properties.

24 d. Require metering or other measuring of brine produced by solution
25 mining, and the maintenance of the records from each cavity or group of
26 interconnected cavities until the wells in a cavity have been plugged
27 and ~~abandoned~~ affected land restored. These records shall be given to
28 the department on request.

29 e. Enter, take temporary possession of, repair, plug or replug any
30 abandoned or orphaned well as provided in the rules and regulations,
31 whenever any operator neglects or refuses to comply with such rules and
32 regulations. Such repairing, plugging or replugging by the department
33 shall be at the expense of the owner or operator whose duty it shall be
34 to repair or plug the well and who shall hold harmless the state of New
35 York for all accounts, damages, costs and judgments arising for the
36 repairing, plugging or replugging of the well and the surface restora-
37 tion of the affected land. Primary liability for the expense of such
38 plugging or replugging and first recourse for the recovery thereof shall
39 be to the operator unless a contract for the production, development,
40 exploration or other working of the well, to which the lessor or other
41 grantor of the solution salt rights is a party, shall place such liabil-
42 ity on the owner or on the owner of another interest in the land on
43 which the well is situated. When an operator violates any provision of
44 this article, any rule or regulation promulgated thereunder, or any
45 order issued pursuant thereto in reference to repairing, plugging or
46 replugging an abandoned or orphaned well, the operator may not transfer
47 the operator's responsibility therefor by surrendering the lease. Prior
48 to the commencement of drilling of any well to which this subdivision
49 applies, the operator shall be required to furnish to the department,
50 and continuously maintain, a bond acceptable to it conditioned upon the
51 performance of said operator's plugging and surface restoration respon-
52 sibilities with respect to said well. Upon the approval of the depart-
53 ment, in lieu of such bond, the operator may deposit cash or negotiable
54 bonds of the United States Government of like amount in an escrow
55 account conditioned upon the performance of said operator's plugging and
56 surface restoration responsibilities with respect to said well. Any

1 interest accruing as a result of aforementioned escrow deposit shall be
2 the exclusive property of the operator. The aforementioned bonding
3 requirements shall remain the obligation of the original operator
4 regardless of changes in operators unless a subsequent operator has
5 furnished the appropriate bond or substitute as herein provided accepta-
6 ble to the department and approval for the transfer of the well plugging
7 ~~[responsibility]~~ and surface restoration responsibilities to the subse-
8 quent operator has been granted by the department. The failure of any
9 operator to maintain a bond or other financial security as prescribed
10 herein shall be deemed a breach of plugging and surface restoration
11 responsibilities and entitle the department to claim the proceeds of the
12 bond or other financial security. Any order issued pursuant to this
13 paragraph may be reviewed upon application of an aggrieved party by
14 means of an order to show cause which order shall be issued by any
15 justice of the supreme court in the judicial district in which any such
16 order applies and shall be returnable on the third succeeding business
17 day following the issuance of such order. Service of such show cause
18 order shall be made upon the regional office of the department for the
19 region in which such order applies, and upon the attorney general by
20 delivery of such order to an assistant attorney general at an office of
21 the attorney general in the county in which venue of the proceeding is
22 designated, or if there is no office of the attorney general within such
23 county, at the office of the attorney general nearest such county.
24 Except as hereinabove specified, the proceeding to review an order under
25 this paragraph shall be governed by article seventy-eight of the civil
26 practice law and rules.

27 f. (1) In order to satisfy the financial security requirements
28 contained in paragraph e of this subdivision for all wells for which the
29 department ~~[either]~~ on or after October first, nineteen hundred sixty-
30 three shall have issued or shall issue permits to drill, deepen, convert
31 or plug back such wells or, on or after June fifth, nineteen hundred
32 seventy-three, shall have issued acknowledgements of notices of inten-
33 tion to drill such wells or for all wells subject to this article for
34 which requests for transfers of well operatorship, which includes plug-
35 ging and surface restoration responsibilities, are approved by the
36 department on or after the effective date of the chapter of the laws of
37 two thousand twenty that amended this paragraph, without in any way
38 affecting any obligation to plug such wells, the operator shall provide
39 a bond or other financial security acceptable to the department ~~[in the~~
40 ~~following amount:~~

41 ~~(i) for wells less than two thousand five hundred feet in depth:~~

42 ~~(a) twenty five hundred dollars per well, provided that the operator~~
43 ~~shall not be required to provide financial security under this item~~
44 ~~exceeding twenty five thousand dollars for up to twenty five wells;~~

45 ~~(b) for twenty six to fifty wells, twenty five thousand dollars, plus~~
46 ~~twenty five hundred dollars per well in excess of twenty five wells,~~
47 ~~provided that the operator shall not be required to provide financial~~
48 ~~security under this item exceeding forty thousand dollars;~~

49 ~~(c) for fifty one to one hundred wells, forty thousand dollars, plus~~
50 ~~twenty five hundred dollars per well in excess of fifty wells, provided~~
51 ~~that the operator shall not be required to provide financial security~~
52 ~~under this item exceeding seventy thousand dollars;~~

53 ~~(d) for over one hundred wells, seventy thousand dollars, plus twen-~~
54 ~~ty five hundred dollars per well in excess of one hundred wells,~~
55 ~~provided that the operator shall not be required to provide financial~~
56 ~~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.

c. Classify ~~[a well as one subject to]~~ and reclassify wells or affected lands as abandoned or orphaned, to wells or unrestored lands regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of this [section] article and require ~~[its]~~ well identification as a geothermal, stratigraphic or brine disposal well.

d. Require the drilling, casing, operation, plugging and replugging of wells subject to this section and reclamation of surrounding land in accordance with rules and regulations of the department.

1 e. Enter, take temporary possession of, repair, plug or replug any
2 abandoned or orphaned well [~~subject to this section~~] as provided in the
3 rules and regulations, whenever the well's owner or operator neglects or
4 refuses to comply with such rules and regulations. Such repairing, plug-
5 ging or replugging by the department shall be at the expense of the
6 owner or operator whose duty it shall be to repair or plug the well and
7 who shall hold harmless the state of New York for all accounts, damages,
8 costs and judgments arising from the repairing, plugging or replugging
9 of the well and the surface restoration of the affected land.

10 f. (1) Require that the operator furnish to the department, and
11 continuously maintain, a bond or other financial security conditioned
12 upon the satisfactory performance of the operator's plugging and surface
13 restoration responsibilities with respect to said [well] wells for which
14 the department shall have issued or shall issue permits to drill, deep-
15 en, convert or plug back or, for all wells subject to this article for
16 which requests for transfers of well operatorship, which includes plug-
17 ging and surface restoration responsibilities, are approved by the
18 department on or after the effective date of the chapter of the laws of
19 two thousand twenty that amended this paragraph. The failure of any
20 operator to maintain a bond or other financial security as prescribed
21 herein shall be deemed a breach of plugging and surface restoration
22 responsibilities and entitle the department to claim the proceeds of the
23 bond or other financial security. Such bond or other financial security
24 shall be for an amount as determined [~~pursuant to the provisions of~~
25 ~~paragraph k of subdivision eight of this section~~] by and acceptable to
26 the department.

27 (2) For all wells that require financial security, the operator shall
28 provide the department with financial security consistent with criteria
29 contained in rules and regulations, and any subsequent rules and regu-
30 lations adopted by the department to implement this article. The depart-
31 ment is authorized to adopt rules and regulations determining the
32 amount, type, conditions, and terms of the financial security.

33 g. In addition to the powers provided for in titles one, three, five
34 and thirteen of article seventy-one of this chapter, order an immediate
35 suspension of operations carried on in violation of the oil, gas and
36 solution mining law or any rule or regulation promulgated thereunder or
37 order issued pursuant thereto.

38 h. Require the immediate reporting of any non-routine incident,
39 including but not limited to casing and drill pipe failures, casing
40 cement failures, fishing jobs, fires, seepages, blowouts and other inci-
41 dents during drilling, completion, producing, plugging or replugging
42 operations that may affect the health, safety, welfare or property of
43 any person or which may be injurious to plants or animals. The depart-
44 ment may require the operator or any agent thereof to record and provide
45 any data which the department believes may be of use for adequate evalu-
46 ation of a non-routine incident.

47 i. Require the taking and making of logs, samples, directional surveys
48 and reports on locations, elevations, drilling and production, and
49 further require filing of such information pursuant to the provisions of
50 the oil, gas and solution mining law. Upon the request of the state
51 geologist, the department shall cause such samples or copies of records
52 and reports to be furnished to the state geologist.

53 j. Give notice to persons engaged in underground mining operations of
54 the commencement of any phase of geothermal, stratigraphic and brine
55 disposal well operations which may affect the safety of such underground
56 mining operations or of the mining properties involved. The department

shall not be required to furnish any notice required by this paragraph unless the person or persons engaged in underground mining operations or having rights in mining properties have notified the department of the existence and location of such underground mining operations or properties.

§ 5. This act shall take effect immediately.

PART WW

Section 1. Subdivision 3 of section 23-0501 of the environmental conservation law is renumbered subdivision 4 and a new subdivision 3 is added to read as follows:

3. No permits shall be issued authorizing an applicant to drill, deepen, plug back, or convert wells that use high-volume hydraulic fracturing to complete or recompleat natural gas resources. For purpose of this section, high-volume hydraulic fracturing shall be defined as the stimulation of a well using three hundred thousand or more gallons of water as the base fluid for hydraulic fracturing for all stages in a well completion, regardless of whether the well is vertical or directional, including horizontal.

§ 2. This act shall take effect immediately.

PART XX

Section 1. The vehicle and traffic law is amended by adding a new section 102-c to read as follows:

§ 102-c. Bicycle with electric assist. Every motor vehicle, including one partially powered by human power, other than one registered or capable of being registered pursuant to this chapter as a motorcycle or limited use motorcycle, having a seat or a saddle for the use of the rider and designed to travel on two wheels which has an electric motor no greater than seven hundred fifty watts, equipped with operable pedals, meeting the equipment and manufacturing requirements for bicycles adopted by the Consumer Product Safety Commission under 16 C.F.R. Part 1512.1 et seq. and meeting the requirements of one of the following three classes:

(a) "Class one bicycle with electric assist." A bicycle with electric assist having an electric motor that provides assistance only when the person operating such bicycle with electric assist is pedaling, and that ceases to provide assistance when such bicycle with electric assist reaches a speed of twenty miles per hour.

(b) "Class two bicycle with electric assist." 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 miles per hour.

(c) "Class three bicycle with electric assist." Solely within a city 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,

1 except (a) electrically-driven mobility assistance devices operated or
2 driven by a person with a disability, (a-1) electric personal assistive
3 mobility devices operated outside a city with a population of one
4 million or more, (a-2) bicycle with electric assist as defined in
5 section one hundred two-c of this article, (b) vehicles which run only
6 upon rails or tracks, (c) snowmobiles as defined in article forty-seven
7 of this chapter, and (d) all terrain vehicles as defined in article
8 forty-eight-B of this chapter. For the purposes of title four of this
9 chapter, the term motor vehicle shall exclude fire and police vehicles
10 other than ambulances. For the purposes of titles four and five of this
11 chapter the term motor vehicles shall exclude farm type tractors and all
12 terrain type vehicles used exclusively for agricultural purposes, or for
13 snow plowing, other than for hire, farm equipment, including self-pro-
14 pelled machines used exclusively in growing, harvesting or handling farm
15 produce, and self-propelled caterpillar or crawler-type equipment while
16 being operated on the contract site.

17 § 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202
18 of the vehicle and traffic law, as amended by chapter 679 of the laws of
19 1970, is amended to read as follows:

20 b. On a sidewalk, except a bicycle with electric assist as defined in
21 section one hundred two-c of this chapter;

22 § 4. The article heading of article 34 of the vehicle and traffic law,
23 as amended by chapter 694 of the laws of 1995, is amended to read as
24 follows:

25 OPERATION OF BICYCLES ~~[AND]~~ PLAY
26 DEVICES AND BICYCLES WITH ELECTRIC ASSIST

27 § 5. Section 1231 of the vehicle and traffic law, as amended by chap-
28 ter 694 of the laws of 1995, is amended to read as follows:

29 § 1231. Traffic laws apply to persons riding bicycles or skating or
30 gliding on in-line skates or persons operating bicycles with electric
31 assist; local laws. 1. Every person riding a bicycle or skating or
32 gliding on in-line skates upon a roadway shall be granted all of the
33 rights and shall be subject to all of the duties applicable to the driv-
34 er of a vehicle by this title, except as to special regulations in this
35 article and except as to those provisions of this title which by their
36 nature can have no application.

37 2. (a) Except as provided by local law, ordinance, order, rule or
38 regulation enacted or promulgated pursuant to paragraph (b) of this
39 subdivision, bicycles with electric assist may only be operated on
40 public highways with a posted speed limit of thirty miles per hour or
41 less, including non-interstate public highways, private roads open to
42 motor vehicle traffic, and designated bicycle or in-line skate lanes.
43 Every person operating a bicycle with electric assist upon a highway or
44 roadway shall be granted all of the rights and shall be subject to all
45 of the duties applicable to the driver of a vehicle by this title,
46 except as to special requirements in this article and except as to those
47 provisions of this title which by their nature can have no application.

48 (b) The governing body of any county, city, town or village may, by
49 local law, ordinance, order, rule or regulation, further regulate the
50 maximum speed, time, place and manner of the operation of a bicycle with
51 electric assist including requiring the use of protective headwear and
52 wearing readily visible reflective clothing or material, and limiting or
53 prohibiting the use thereof in specified areas under the jurisdiction of
54 such county, city, town or village or prohibit entirely the use of bicy-
55 cles with electric assist within such county, city, town or village.
56 Notwithstanding title eight of this chapter, the governing body of any

1 county, city, town or village shall not authorize the use of bicycles
2 with electric assist upon sidewalks or regulate the parking, standing or
3 stopping of bicycles with electric assist on sidewalks.

4 § 6. The vehicle and traffic law is amended by adding a new section
5 1232-a to read as follows:

6 § 1232-a. Operating bicycles with electric assist. 1. Every person
7 operating a bicycle with electric assist shall yield the right of way to
8 pedestrians.

9 2. Every operator of a bicycle with electric assist shall be sixteen
10 years of age or older.

11 3. The operation of a class three bicycle with electric assist outside
12 a city having a population of one million or more is prohibited.

13 4. No person shall operate a class one or class two bicycle with elec-
14 tric assist in excess of twenty miles per hour. No person shall operate
15 a class three bicycle with electric assist in excess of twenty-five
16 miles per hour.

17 5. No person shall operate a bicycle with electric assist on a side-
18 walk.

19 6. A first violation of the provisions of this section shall result in
20 no fine. A second or subsequent violation shall result in a civil fine
21 not to exceed fifty dollars.

22 § 7. Subdivision 1 of section 1233 of the vehicle and traffic law, as
23 amended by chapter 703 of the laws of 2004, is amended to read as
24 follows:

25 1. No person operating a bicycle with electric assist or riding upon
26 any bicycle, coaster, in-line skates, roller skates, skate board, sled,
27 or toy vehicle shall attach the same or himself or herself to any vehi-
28 cle being operated upon a roadway.

29 § 8. Section 1234 of the vehicle and traffic law, as amended by chap-
30 ter 16 of the laws of 1996, is amended to read as follows:

31 § 1234. Riding or operating on roadways, shoulders, bicycle or in-line
32 skate lanes [~~and~~], bicycle or in-line skate paths and lanes reserved
33 for non-motorized vehicles and devices. (a) Upon all roadways, any
34 bicycle, bicycle with electric assist or in-line skate shall be driven
35 or operated either on a usable bicycle or in-line skate lane or, if a
36 usable bicycle or in-line skate lane has not been provided, near the
37 right-hand curb or edge of the roadway or upon a usable right-hand
38 shoulder in such a manner as to prevent undue interference with the flow
39 of traffic except when preparing for a left turn or when reasonably
40 necessary to avoid conditions that would make it unsafe to continue
41 along near the right-hand curb or edge. Conditions to be taken into
42 consideration include, but are not limited to, fixed or moving objects,
43 vehicles, bicycles, in-line skates, pedestrians, animals, surface
44 hazards or traffic lanes too narrow for a bicycle, bicycle with electric
45 assist or person on in-line skates and a vehicle to travel safely side-
46 by-side within the lane.

47 (b) Persons riding bicycles or skating or gliding on in-line skates
48 upon a roadway shall not ride more than two abreast. Persons operating
49 bicycles with electric assist upon a roadway shall ride single file.
50 Persons riding bicycles or skating or gliding on in-line skates or oper-
51 ating a bicycle with electric assist upon a shoulder, bicycle or in-line
52 skate lane, or bicycle or in-line skates path, intended for the use of
53 bicycles, electric personal assistive mobility device, bicycles with
54 electric assist, or in-line skates may ride two or more abreast if
55 sufficient space is available, except that when passing a vehicle, bicy-
56 cle [~~or~~], electric personal assistive mobility device, bicycle with

1 electric assist, person on in-line skates, or pedestrian, standing or
2 proceeding along such shoulder, lane or path, persons riding bicycles,
3 operating bicycles with electric assist, or skating or gliding on
4 in-line skates shall ride, operate, skate, or glide single file. Persons
5 riding bicycles or skating or gliding on in-line skates upon a roadway
6 shall ride, skate, or glide single file when being overtaken by a vehi-
7 cle.

8 (c) Any person operating a bicycle, bicycle with electric assist or
9 skating or gliding on in-line skates who is entering the roadway from a
10 private road, driveway, alley or over a curb shall come to a full stop
11 before entering the roadway.

12 § 9. Section 1235 of the vehicle and traffic law, as amended by chap-
13 ter 703 of the laws of 2004, is amended to read as follows:

14 § 1235. Carrying articles. No person operating a bicycle shall carry
15 any package, bundle, or article which prevents the driver from keeping
16 at least one hand upon the handle bars. No person operating a bicycle
17 with electric assist shall carry any package, bundle or article which
18 prevents the operator from keeping at least one hand upon the handle
19 bars or which obstructs his or her vision. No person skating or gliding
20 on in-line skates shall carry any package, bundle, or article which
21 obstructs his or her vision in any direction. No person operating a
22 skate board shall carry any package, bundle, or article which obstructs
23 his or her vision in any direction.

24 § 10. Section 1236 of the vehicle and traffic law, subdivision (a) as
25 amended by chapter 16 of the laws of 2009 and subdivisions (d) and (e)
26 as added by chapter 887 of the laws of 1976, is amended to read as
27 follows:

28 § 1236. Lamps and other equipment on bicycles and bicycles with elec-
29 tric assist. (a) Every bicycle or bicycle with electric assist when in
30 use during the period from one-half hour after sunset to one-half hour
31 before sunrise shall be equipped with a lamp on the front which shall
32 emit a white light visible during hours of darkness from a distance of
33 at least five hundred feet to the front and with a red or amber light
34 visible to the rear for three hundred feet. Effective July first, nine-
35 teen hundred seventy-six, at least one of these lights shall be visible
36 for two hundred feet from each side.

37 (b) No person shall operate a bicycle or bicycle with electric assist
38 unless it is equipped with a bell or other device capable of giving a
39 signal audible for a distance of at least one hundred feet, except that
40 a bicycle or bicycle with electric assist shall not be equipped with nor
41 shall any person use upon a bicycle or bicycle with electric assist any
42 siren or whistle.

43 (c) Every bicycle shall be equipped with a brake which will enable the
44 operator to make the braked wheels skid on dry, level, clean pavement.
45 Every bicycle with electric assist shall be equipped with a system that
46 enables the operator to bring the device to a controlled stop.

47 (d) Every new bicycle shall be equipped with reflective tires or,
48 alternately, a reflex reflector mounted on the spokes of each wheel,
49 said tires and reflectors to be of types approved by the commissioner.
50 The reflex reflector mounted on the front wheel shall be colorless or
51 amber, and the reflex reflector mounted on the rear wheel shall be
52 colorless or red.

53 (e) Every bicycle when in use during the period from one-half hour
54 after sunset to one-half hour before sunrise shall be equipped with
55 reflective devices or material meeting the standards established by
56 rules and regulations promulgated by the commissioner; provided, howev-

er, 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 ~~[or]~~, 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, ~~[or]~~ 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, ~~[or]~~ five-a, or five-c of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

§ 15. Section 1240 of the vehicle and traffic law, as added by chapter 468 of the laws of 2001, is amended to read as follows:

§ 1240. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance or involving a bicycle with electric assist without reporting in the second degree. 1. Any person age eighteen years

1 or older operating a wheeled non-motorized means of conveyance, includ-
2 ing, but not limited to bicycles, in-line skates, roller skates and
3 skate boards, or operating a bicycle with electric assist, who, knowing
4 or having cause to know, that physical injury, as defined in subdivision
5 nine of section 10.00 of the penal law, has been caused to another
6 person, due to the operation of such non-motorized means of conveyance
7 or bicycle with electric assist by such person, shall, before leaving
8 the place where the said physical injury occurred, stop, and provide his
9 name and residence, including street and street number, to the injured
10 party, if practical, and also to a police officer, or in the event that
11 no police officer is in the vicinity of the place of said injury, then
12 such person shall report said incident as soon as physically able to the
13 nearest police station or judicial officer.

14 2. Leaving the scene of an incident involving a wheeled non-motorized
15 means of conveyance or involving a bicycle with electric assist without
16 reporting in the second degree is a violation.

17 § 16. Section 1241 of the vehicle and traffic law, as added by chapter
18 468 of the laws of 2001, is amended to read as follows:

19 § 1241. Leaving the scene of an incident involving a wheeled non-mo-
20 torized means of conveyance or involving a bicycle with electric assist
21 without reporting in the first degree. 1. Any person age eighteen years
22 or older operating a wheeled non-motorized means of conveyance, includ-
23 ing, but not limited to bicycles, in-line skates, roller skates and
24 skate boards, or operating a bicycle with electric assist, who, knowing
25 or having cause to know, that serious physical injury, as defined in
26 subdivision ten of section 10.00 of the penal law, has been caused to
27 another person, due to the operation of such non-motorized means of
28 conveyance or bicycle with electric assist by such person, shall, before
29 leaving the place where the said serious physical injury occurred, stop,
30 and provide his name and residence, including street and street number,
31 to the injured party, if practical, and also to a police officer, or in
32 the event that no police officer is in the vicinity of the place of said
33 injury, then such person shall report said incident as soon as phys-
34 ically able to the nearest police station or judicial officer.

35 2. Leaving the scene of an incident involving a wheeled non-motorized
36 means of conveyance or involving a bicycle with electric assist without
37 reporting in the first degree is a class B misdemeanor.

38 § 17. The vehicle and traffic law is amended by adding a new section
39 1242 to read as follows:

40 § 1242. Operation of a bicycle with electric assist while under the
41 influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No
42 person shall operate a bicycle with electric assist while his or her
43 ability to operate such bicycle with electric assist is impaired by the
44 consumption of alcohol.

45 (i) A violation of this subdivision shall be an offense and shall be
46 punishable by a fine of not less than three hundred dollars nor more
47 than five hundred dollars, or by imprisonment in a penitentiary or coun-
48 ty jail for not more than fifteen days, or by both such fine and impri-
49 sonment.

50 (ii) A person who operates a bicycle with electric assist in violation
51 of this subdivision after being convicted of a violation of any subdivi-
52 sion of this section within the preceding five years shall be punished
53 by a fine of not less than five hundred dollars nor more than seven
54 hundred fifty dollars, or by imprisonment of not more than thirty days
55 in a penitentiary or county jail or by both such fine and imprisonment.

1 (iii) A person who operates a bicycle with electric assist in
2 violation of this subdivision after being convicted two or more times of
3 a violation of any subdivision of this section within the preceding ten
4 years shall be guilty of a misdemeanor, and shall be punished by a fine
5 of not less than seven hundred fifty dollars nor more than fifteen
6 hundred dollars, or by imprisonment of not more than one hundred eighty
7 days in a penitentiary or county jail or by both such fine and imprison-
8 ment.

9 (b) No person shall operate a bicycle with electric assist while he or
10 she has .08 of one per centum or more by weight of alcohol in his or her
11 blood, breath, urine, or saliva, as determined by the chemical test made
12 pursuant to the provisions of subdivision five of this section.

13 (c) No person shall operate a bicycle with electric assist while he or
14 she is in an intoxicated condition.

15 (d) No person shall operate a bicycle with electric assist while his
16 or her ability to operate such bicycle with electric assist is impaired
17 by the use of a drug as defined by section one hundred fourteen-a of
18 this chapter.

19 (e) No person shall operate a bicycle with electric assist while his
20 or her ability to operate such bicycle with electric assist is impaired
21 by the combined influence of drugs or of alcohol and any drug or drugs
22 as defined by section one hundred fourteen-a of this chapter.

23 (f) (i) A violation of paragraph (b), (c), (d), or (e) of this subdivi-
24 vision shall be a misdemeanor and shall be punishable by imprisonment in
25 a penitentiary or county jail for not more than one year, or by a fine
26 of not less than five hundred dollars nor more than one thousand
27 dollars, or by both such fine and imprisonment.

28 (ii) A person who operates a bicycle with electric assist in violation
29 of paragraph (b), (c), (d) or (e) of this subdivision after having been
30 convicted of a violation of paragraph (b), (c), (d) or (e) of this
31 subdivision, or of operating a bicycle with electric assist while intox-
32 icated or while under the influence of drugs, or while under the
33 combined influence of drugs or of alcohol and any drug or drugs, within
34 the preceding ten years, shall be guilty of a class E felony and shall
35 be punished by a period of imprisonment as provided in the penal law, or
36 by a fine of not less than one thousand dollars nor more than five thou-
37 sand dollars, or by both such fine and imprisonment.

38 (iii) A person who operates a bicycle with electric assist in
39 violation of paragraph (b), (c), (d) or (e) of this subdivision after
40 having been twice convicted of a violation of any of such paragraph (b),
41 (c), (d) or (e) of this subdivision or of operating a bicycle with elec-
42 tric assist while intoxicated or under the influence of drugs, or while
43 under the combined influence of drugs or of alcohol and any drug or
44 drugs, within the preceding ten years, shall be guilty of a class D
45 felony and shall be punished by a fine of not less than two thousand
46 dollars nor more than ten thousand dollars or by a period of imprison-
47 ment as provided in the penal law, or by both such fine and imprison-
48 ment.

49 2. Sentencing limitations. Notwithstanding any provision of the penal
50 law, no judge or magistrate shall impose a sentence of unconditional
51 discharge or a violation of paragraph (b), (c), (d) or (e) of subdivi-
52 sion one of this section nor shall he or she impose a sentence of condi-
53 tional discharge unless such conditional discharge is accompanied by a
54 sentence of a fine as provided in this section.

55 3. Sentencing: previous convictions. When sentencing a person for a
56 violation of paragraph (b), (c), (d) or (e) of subdivision one of this

1 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
2 one of this section, the court shall consider any prior convictions the
3 person may have for a violation of subdivision two, two-a, three, four,
4 or four-a of section eleven hundred ninety-two of this title within the
5 preceding ten years. When sentencing a person for a violation of para-
6 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
7 to subparagraph (iii) of paragraph (f) of subdivision one of this
8 section, the court shall consider any prior convictions the person may
9 have for a violation of subdivision two, two-a, three, four, or four-a
10 of section eleven hundred ninety-two of this title within the preceding
11 ten years. When sentencing a person for a violation of subparagraph
12 (ii) of paragraph (a) of subdivision one of this section, the court
13 shall consider any prior convictions the person may have for a violation
14 of any subdivision of section eleven hundred ninety-two of this title
15 within the preceding five years. When sentencing a person for a
16 violation of subparagraph (iii) of paragraph (a) of subdivision one of
17 this section, the court shall consider any prior convictions the person
18 may have for a violation of any subdivision of section eleven hundred
19 ninety-two of this title within the preceding ten years.

20 4. Arrest and testing. (a) Notwithstanding the provisions of section
21 140.10 of the criminal procedure law, a police officer may, without a
22 warrant, arrest a person, in case of a violation of any paragraph of
23 subdivision one of this section, if such violation is coupled with an
24 accident or collision in which such person is involved, which in fact
25 had been committed, though not in the police officer's presence, when he
26 or she has reasonable cause to believe that the violation was committed
27 by such person. For the purposes of this subdivision, police officer
28 shall also include a peace officer authorized to enforce this chapter
29 when the alleged violation constitutes a crime.

30 (b) Breath test for operators of bicycles with electric assist. Every
31 person operating a bicycle with electric assist which has been involved
32 in an accident or which is operated in violation of any of the
33 provisions of this section which regulate the manner in which a bicycle
34 with electric assist is to be properly operated shall, at the request of
35 a police officer, submit to a breath test to be administered by the
36 police officer. If such test indicates that such operator has consumed
37 alcohol, the police officer may request such operator to submit to a
38 chemical test in the manner set forth in subdivision five of this
39 section.

40 5. Chemical tests. (a) Any person who operates a bicycle with electric
41 assist shall be requested to consent to a chemical test of one or more
42 of the following: breath, blood, urine, or saliva for the purpose of
43 determining the alcoholic or drug content of his or her blood, provided
44 that such test is administered at the direction of a police officer: (i)
45 having reasonable cause to believe such person to have been operating in
46 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of
47 subdivision one of this section and within two hours after such person
48 has been placed under arrest for any such violation or (ii) within two
49 hours after a breath test as provided in paragraph (b) of subdivision
50 four of this section indicates that alcohol has been consumed by such
51 person and in accordance with the rules and regulations established by
52 the police force of which the officer is a member.

53 (b) For the purpose of this subdivision "reasonable cause" shall be
54 determined by viewing the totality of circumstances surrounding the
55 incident which, when taken together, indicate that the operator was
56 operating a bicycle with electric assist in violation of any paragraph

1 of subdivision one of this section. Such circumstances may include, but
2 are not limited to: evidence that the operator was operating a bicycle
3 with electric assist in violation of any provision of this chapter,
4 local law, ordinance, order, rule or regulation which regulates the
5 manner in which a bicycle with electric assist be properly operated at
6 the time of the incident; any visible indication of alcohol or drug
7 consumption or impairment by the operator; and other evidence surround-
8 ing the circumstances of the incident which indicates that the operator
9 has been operating a bicycle with electric assist while impaired by the
10 consumption of alcohol or drugs or was intoxicated at the time of the
11 incident.

12 6. Chemical test evidence. (a) Upon the trial of any such action or
13 proceeding arising out of actions alleged to have been committed by any
14 person arrested for a violation of any paragraph of subdivision one of
15 this section, the court shall admit evidence of the amount of alcohol or
16 drugs in the defendant's blood as shown by a test administered pursuant
17 to the provisions of subdivision five of this section.

18 (b) The following effect shall be given to evidence of blood alcohol
19 content, as determined by such tests, of a person arrested for a
20 violation of any paragraph of subdivision one of this section and who
21 was operating a bicycle with electric assist:

22 (i) evidence that there was .05 of one per centum or less by weight of
23 alcohol in such person's blood shall be prima facie evidence that the
24 ability of such person to operate a bicycle with electric assist was not
25 impaired by the consumption of alcohol, and that such person was not in
26 an intoxicated condition.

27 (ii) evidence that there was more than .05 of one per centum but less
28 than .07 of one per centum by weight of alcohol in such person's blood
29 shall be prima facie evidence that such person was not in an intoxicated
30 condition, but such evidence shall be relevant evidence but not be given
31 prima facie effect, in determining whether the ability of such person to
32 operate a bicycle with electric assist was impaired by the consumption
33 of alcohol.

34 (iii) evidence that there was .07 of one per centum or more but less
35 than .08 of one per centum by weight of alcohol in his or her blood
36 shall be prima facie evidence that such person was not in an intoxicated
37 condition, but such evidence shall be given prima facie effect in deter-
38 mining whether the ability of such person to operate a bicycle with
39 electric assist was impaired by the consumption of alcohol.

40 (c) Evidence of a refusal to submit to a chemical test or any portion
41 thereof shall be admissible in any trial or hearing provided the request
42 to submit to such a test was made in accordance with the provisions of
43 subdivision five of this section.

44 7. Limitations. (a) A bicycle with electric assist operator may be
45 convicted of a violation of paragraphs (a), (b), (c), (d) and (e) of
46 subdivision one of this section, notwithstanding that the charge laid
47 before the court alleged a violation of paragraph (b), (c), (d) or (e)
48 of subdivision one of this section, and regardless of whether or not
49 such condition is based on a plea of guilty.

50 (b) In any case wherein the charge laid before the court alleges a
51 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
52 section, any plea of guilty thereafter entered in satisfaction of such
53 charge must include at least a plea of guilty to the violation of the
54 provisions of one of the paragraphs of such subdivision one and no other
55 disposition by plea of guilty to any other charge in satisfaction of
56 such charge shall be authorized; provided, however, if the district

1 attorney upon reviewing the available evidence determines that the
2 charge of a violation of subdivision one of this section is not
3 warranted, he or she may consent, and the court may allow, a disposition
4 by plea of guilty to another charge in satisfaction of such charge.

5 8. Enforcement upon crash. Notwithstanding any provision of this
6 section, no part of this section may be enforced unless in conjunction
7 with a crash involving an operator of a bicycle with electric assist.
8 For the purposes of this subdivision, "crash" shall mean colliding with
9 a vehicle, person, building or other object.

10 § 18. This act shall take effect immediately.

11 PART YY

12 Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003,
13 amending the vehicle and traffic law and other laws relating to increas-
14 ing certain motor vehicle transaction fees, as amended by section 1 of
15 part A of chapter 58 of the laws of 2017, is amended to read as follows:

16 § 13. This act shall take effect immediately; ~~[provided however that~~
17 ~~sections one through seven of this act, the amendments to subdivision 2~~
18 ~~of section 205 of the tax law made by section eight of this act, and~~
19 ~~section nine of this act shall expire and be deemed repealed on April 1,~~
20 ~~2020; provided further, however, that the provisions of section eleven~~
21 ~~of this act shall take effect April 1, 2004 and shall expire and be~~
22 ~~deemed repealed on April 1, 2020].~~

23 § 2. Section 2 of part B of chapter 84 of the laws of 2002, amending
24 the state finance law relating to the costs of the department of motor
25 vehicles, as amended by section 2 of part A of chapter 58 of the laws of
26 2015, is amended to read as follows:

27 § 2. This act shall take effect April 1, 2002; provided, however, if
28 this act shall become a law after such date it shall take effect imme-
29 diately and shall be deemed to have been in full force and effect on and
30 after April 1, 2002~~;~~ ~~provided further, however, that this act shall~~
31 ~~expire and be deemed repealed on April 1, 2020].~~

32 § 3. This act shall take effect immediately.

33 PART ZZ

34 Section 1. Section 5 of chapter 751 of the laws of 2005, amending the
35 insurance law and the vehicle and traffic law relating to establishing
36 the accident prevention course internet technology pilot program, as
37 amended by section 3 of part D of chapter 58 of the laws of 2016, is
38 amended to read as follows:

39 § 5. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law and shall expire and be deemed repealed April
41 1, ~~2020~~ 2022; provided that any rules and regulations necessary to
42 implement the provisions of this act on its effective date are author-
43 ized and directed to be completed on or before such date.

44 § 2. This act shall take effect immediately.

45 PART AAA

46 Section 1. The vehicle and traffic law is amended by adding a new
47 section 114-e to read as follows:

48 § 114-e. Electric scooter. Every two-wheeled device that is no more
49 than sixty inches in length, twenty-six inches in width, and fifty-five
50 inches in height, which is designed to transport one person sitting or

standing on the device and can be propelled by any power other than muscular power.

§ 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) electric scooters, (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 an electric scooter as defined in section one hundred fourteen-e of this chapter;

§ 4. The vehicle and traffic law is amended by adding a new article 34-D to read as follows:

ARTICLE 34-D

OPERATION OF ELECTRIC SCOOTERS

Section 1280. Effect of requirements.

1281. Traffic laws apply to persons operating electric scooters; local laws.

1282. Operating electric scooters.

1283. Clinging to vehicles.

1284. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices.

1285. Lamps and other equipment.

1286. Operators to wear protective headgear.

1287. Leaving the scene of an incident involving an electric scooter without reporting.

1288. Operation of an electric scooter while under the influence of alcohol or drugs.

§ 1280. Effect of requirements. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.

§ 1281. Traffic laws apply to persons operating electric scooters; local laws. 1. Electric scooters 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 an electric scooter 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.

2. 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 electric scooters including requiring the use of protective headgear 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 electric scooters within such county, city, town or village. Notwithstanding title eight of this chapter, the governing body of any county, city, town or village may not authorize the use of electric scooters upon sidewalks and it may not regulate the parking, standing or stopping of electric scooters on sidewalks.

§ 1282. Operating electric scooters. 1. No electric scooter shall be used to carry more than one person at one time. No person operating an electric scooter shall carry any person as a passenger in a pack fastened to the operator or fastened to such scooter.

2. No person operating an electric scooter 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 in any direction.

3. Every person operating an electric scooter shall yield the right of way to pedestrians.

4. Every operator of an electric scooter shall be sixteen years of age or older.

5. No person shall operate an electric scooter in excess of fifteen miles per hour.

6. The operation of an electric scooter on a sidewalk is prohibited.

7. (a) The governing body of any county, city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared electric scooter systems within such county, city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. No such shared electric scooter system shall operate on public highways in a county with a population of no less than one million five hundred eighty-five thousand and no more than one million five hundred eighty-seven thousand as of the two thousand ten decennial census. For the purposes of this subdivision, the term shared electric scooter system shall mean a network of self-service and publicly available electric scooters, and related infrastructure, in which an electric scooter trip begins and/or ends on any public highway.

(b) Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any shared electric scooter system which is authorized to operate within a city, town or village pursuant to this section: (i) shall be for the exclusive use of such shared electric scooter system and shall not be sold, distributed or otherwise made available for any commercial purpose and (ii) shall not be disclosed or otherwise made accessible except: (1) to the person who is the subject of such data, information or record; or (2) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system.

1 8. A first violation of the provisions of this section shall result in
2 no fine. A second or subsequent violation shall result in a civil fine
3 not to exceed fifty dollars.

4 § 1283. Clinging to vehicles. 1. No person operating an electric
5 scooter shall attach such scooter, or himself or herself to any vehicle
6 being operated upon a roadway.

7 2. No vehicle operator shall knowingly permit any person to attach any
8 electric scooter or himself or herself to such operator's vehicle in
9 violation of subdivision one of this section.

10 § 1284. Riding on roadways, shoulders and lanes reserved for non-mo-
11 torized vehicles and devices. 1. Upon all roadways, any electric scooter
12 shall be operated either on a usable bicycle or in-line skate lane or,
13 if a usable bicycle or in-line skate lane has not been provided, near
14 the right-hand curb or edge of the roadway or upon a usable right-hand
15 shoulder in such a manner as to prevent undue interference with the flow
16 of traffic except when preparing to turn left at an intersection or when
17 reasonably necessary to avoid conditions that would make it unsafe to
18 continue along near the right-hand curb or edge of the roadway. Condi-
19 tions to be taken into consideration include, but are not limited to,
20 fixed or moving objects, vehicles, bicycles, in-line skaters, pedestri-
21 ans, animals, surface hazards and traffic lanes too narrow for an elec-
22 tric scooter and a vehicle to travel safely side-by-side within the
23 lane.

24 2. Persons operating electric scooters upon a roadway shall ride
25 single file. Persons operating electric scooters upon a shoulder, bicy-
26 cle or in-line skate lane, or bicycle or in-line skate path, intended
27 for the use of bicycles, electric personal assistive mobility devices,
28 electric scooters, or in-line skates may ride two or more abreast if
29 sufficient space is available, except that when passing a vehicle, bicy-
30 cle, electric personal assistive mobility device, electric scooter,
31 person on in-line skates or pedestrian standing or proceeding along such
32 shoulder, lane or path, persons operating electric scooters shall oper-
33 ate such scooter in single file.

34 3. Any person operating an electric scooter who is entering the road-
35 way from a private road, driveway, alley or over a curb shall come to a
36 full stop before entering the roadway.

37 § 1285. Lamps and other equipment. 1. Every electric scooter when in
38 use during the period from one-half hour after sunset to one-half hour
39 before sunrise shall be equipped with a lamp on the front which shall
40 emit a white light visible during hours of darkness from a distance of
41 at least five hundred feet to the front and with a red light visible to
42 the rear for three hundred feet. At least one of these lights shall be
43 visible for two hundred feet from each side.

44 2. No person shall operate an electric scooter unless it is equipped
45 with a bell or other device capable of giving a signal audible for a
46 distance of at least one hundred feet, except that such scooter shall
47 not be equipped with nor shall any person use upon such scooter any
48 siren or whistle.

49 3. Every electric scooter shall be equipped with a system that enables
50 the operator to bring the device to a controlled stop.

51 § 1286. Operators to wear protective headgear. 1. No person sixteen or
52 seventeen years of age shall ride upon, propel or otherwise operate an
53 electric scooter unless such person is wearing a helmet meeting stand-
54 ards established by the commissioner pursuant to the provisions of
55 subdivision two-a of section twelve hundred thirty-eight of this title.
56 As used in this subdivision, wearing a helmet means having a properly

1 fitting helmet fixed securely on the head of such wearer with the helmet
2 straps securely fastened.

3 2. Any person who violates the provisions of subdivision one of this
4 section shall pay a civil fine not to exceed fifty dollars.

5 3. The court shall waive any fine for which a person who violates the
6 provisions of subdivision one of this section would be liable if such
7 person supplies the court with proof that between the date of violation
8 and the appearance date for such violation such person purchased or
9 rented a helmet, which meets the requirements of subdivision one of this
10 section, or if the court finds that due to reasons of economic hardship
11 such person was unable to purchase a helmet or due to such economic
12 hardship such person was unable to obtain a helmet from the statewide
13 in-line skate and bicycle helmet distribution program, as established in
14 section two hundred six of the public health law or a local distribution
15 program. Such waiver of fine shall not apply to a second or subsequent
16 conviction under subdivision one of this section.

17 4. The failure of any person to comply with the provisions of this
18 section shall not constitute contributory negligence or assumption of
19 risk, and shall not in any way bar, preclude or foreclose an action for
20 personal injury or wrongful death by or on behalf of such person, nor in
21 any way diminish or reduce the damages recoverable in any such action.

22 § 1287. Leaving the scene of an incident involving an electric scooter
23 without reporting. 1. (a) Any person eighteen years of age or older
24 operating an electric scooter who, knowing or having cause to know, that
25 physical injury, as defined in subdivision nine of section 10.00 of the
26 penal law, has been caused to another person, due to the operation of
27 such electric scooter by such person shall, before leaving the place
28 where such physical injury occurred, stop and provide his or her name
29 and residence, including street and street number, to the injured party,
30 if practical, and also to a police officer, or in the event that no
31 police officer is in the vicinity of the place of said injury, then such
32 person shall report said incident as soon as physically able to the
33 nearest police station or judicial officer.

34 (b) A violation of paragraph (a) of this subdivision shall be a
35 violation.

36 2. (a) Any person eighteen years of age or older operating an electric
37 scooter who, knowing or having cause to know, that serious physical
38 injury, as defined in subdivision ten of section 10.00 of the penal law,
39 has been caused to another person, due to the operation of such electric
40 scooter by such person shall, before leaving the place where such seri-
41 ous physical injury occurred, stop and provide his or her name and resi-
42 dence, including street and street number, to the injured party, if
43 practical, and also to a police officer, or in the event that no police
44 officer is in the vicinity of the place of said injury, then such person
45 shall report said incident as soon as physically able to the nearest
46 police station or judicial officer.

47 (b) A violation of paragraph (a) of this subdivision shall be a class
48 B misdemeanor.

49 § 1288. Operation of an electric scooter while under the influence of
50 alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall
51 operate an electric scooter while his or her ability to operate such
52 electric scooter is impaired by the consumption of alcohol.

53 (i) A violation of this subdivision shall be an offense and shall be
54 punishable by a fine of not less than three hundred dollars nor more
55 than five hundred dollars, or by imprisonment in a penitentiary or coun-

1 ty jail for not more than fifteen days, or by both such fine and impri-
2 sonment.

3 (ii) A person who operates an electric scooter in violation of this
4 subdivision after being convicted of a violation of any subdivision of
5 this section within the preceding five years shall be punished by a fine
6 of not less than five hundred dollars nor more than seven hundred fifty
7 dollars, or by imprisonment of not more than thirty days in a penitenti-
8 ary or county jail or by both such fine and imprisonment.

9 (iii) A person who operates an electric scooter in violation of this
10 subdivision after being convicted two or more times of a violation of
11 any subdivision of this section within the preceding ten years shall be
12 guilty of a misdemeanor, and shall be punished by a fine of not less
13 than seven hundred fifty dollars nor more than fifteen hundred dollars,
14 or by imprisonment of not more than one hundred eighty days in a peni-
15 tentiary or county jail or by both such fine and imprisonment.

16 (b) No person shall operate an electric scooter while he or she has
17 .08 of one per centum or more by weight of alcohol in his or her blood,
18 breath, urine, or saliva, as determined by the chemical test made pursu-
19 ant to the provisions of subdivision five of this section.

20 (c) No person shall operate an electric scooter while he or she is in
21 an intoxicated condition.

22 (d) No person shall operate an electric scooter while his or her abil-
23 ity to operate such electric scooter is impaired by the use of a drug as
24 defined by section one hundred fourteen-a of this chapter.

25 (e) No person shall operate an electric scooter while his or her abil-
26 ity to operate such electric scooter is impaired by the combined influ-
27 ence of drugs or of alcohol and any drug or drugs as defined by section
28 one hundred fourteen-a of this chapter.

29 (f)(i) A violation of paragraph (b), (c), (d) or (e) of this subdivi-
30 sion shall be a misdemeanor and shall be punishable by imprisonment in a
31 penitentiary or county jail for not more than one year, or by a fine of
32 not less than five hundred dollars nor more than one thousand dollars,
33 or by both such fine and imprisonment.

34 (ii) A person who operates an electric scooter in violation of para-
35 graph (b), (c), (d) or (e) of this subdivision after having been
36 convicted of a violation of paragraph (b), (c), (d) or (e) of this
37 subdivision, or of operating an electric scooter while intoxicated or
38 while under the influence of drugs, or while under the combined influ-
39 ence of drugs or of alcohol and any drug or drugs, within the preceding
40 ten years, shall be guilty of a class E felony and shall be punished by
41 a period of imprisonment as provided in the penal law, or by a fine of
42 not less than one thousand dollars nor more than five thousand dollars,
43 or by both such fine and imprisonment.

44 (iii) A person who operates an electric scooter in violation of para-
45 graph (b), (c), (d) or (e) of this subdivision after having been twice
46 convicted of a violation of any of such paragraph (b), (c), (d) or (e)
47 of this subdivision or of operating an electric scooter while intoxicat-
48 ed or under the influence of drugs, or while under the combined influ-
49 ence of drugs or of alcohol and any drug or drugs, within the preceding
50 ten years, shall be guilty of a class D felony and shall be punished by
51 a fine of not less than two thousand dollars nor more than ten thousand
52 dollars or by a period of imprisonment as provided in the penal law, or
53 by both such fine and imprisonment.

54 2. Sentencing limitations. Notwithstanding any provision of the penal
55 law, no judge or magistrate shall impose a sentence of unconditional
56 discharge for a violation of paragraph (b), (c), (d) or (e) of subdivi-

1 sion one of this section nor shall he or she impose a sentence of condi-
2 tional discharge unless such conditional discharge is accompanied by a
3 sentence of a fine as provided in this section.

4 3. Sentencing; previous convictions. When sentencing a person for a
5 violation of paragraph (b), (c), (d) or (e) of subdivision one of this
6 section pursuant to subparagraph (ii) of paragraph (f) of subdivision
7 one of this section, the court shall consider any prior convictions the
8 person may have for a violation of subdivision two, two-a, three, four,
9 or four-a of section eleven hundred ninety-two of this title within the
10 preceding ten years. When sentencing a person for a violation of para-
11 graph (b), (c), (d) or (e) of subdivision one of this section pursuant
12 to subparagraph (iii) of paragraph (f) of subdivision one of this
13 section, the court shall consider any prior convictions the person may
14 have for a violation of subdivision two, two-a, three, four, or four-a
15 of section eleven hundred ninety-two of this title within the preceding
16 ten years. When sentencing a person for a violation of subparagraph (ii)
17 of paragraph (a) of subdivision one of this section, the court shall
18 consider any prior convictions the person may have for a violation of
19 any subdivision of section eleven hundred ninety-two of this title with-
20 in the preceding five years. When sentencing a person for a violation of
21 subparagraph (iii) of paragraph (a) of subdivision one of this section,
22 the court shall consider any prior convictions the person may have for a
23 violation of any subdivision of section eleven hundred ninety-two of
24 this title within the preceding ten years.

25 4. Arrest and testing. (a) Notwithstanding the provisions of section
26 140.10 of the criminal procedure law, a police officer may, without a
27 warrant, arrest a person, in case of a violation of any paragraph of
28 subdivision one of this section, if such violation is coupled with an
29 accident or collision in which such person is involved, which in fact
30 had been committed, though not in the police officer's presence, when he
31 or she has reasonable cause to believe that the violation was committed
32 by such person. For the purposes of this subdivision police officer
33 shall also include a peace officer authorized to enforce this chapter
34 when the alleged violation constitutes a crime.

35 (b) Breath test for operators of electric scooters. Every person
36 operating an electric scooter which has been involved in an accident or
37 which is operated in violation of any of the provisions of this section
38 which regulate the manner in which an electric scooter is to be properly
39 operated shall, at the request of a police officer, submit to a breath
40 test to be administered by the police officer. If such test indicates
41 that such operator has consumed alcohol, the police officer may request
42 such operator to submit to a chemical test in the manner set forth in
43 subdivision five of this section.

44 5. Chemical tests. (a) Any person who operates an electric scooter
45 shall be requested to consent to a chemical test of one or more of the
46 following: breath, blood, urine, or saliva for the purpose of determin-
47 ing the alcoholic or drug content of his or her blood, provided that
48 such test is administered at the direction of a police officer: (i)
49 having reasonable cause to believe such person to have been operating in
50 violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of
51 subdivision one of this section and within two hours after such person
52 has been placed under arrest for any such violation or (ii) within two
53 hours after a breath test as provided in paragraph (b) of subdivision
54 four of this section indicates that alcohol has been consumed by such
55 person and in accordance with the rules and regulations established by
56 the police force of which the officer is a member.

(b) For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was operating an electric scooter in violation of any paragraph of subdivision one of this section. Such circumstances may include, but are not limited to: evidence that the operator was operating an electric scooter in violation of any provision of this chapter, local law, ordinance, order, rule or regulation which regulates the manner in which an electric scooter be properly operated at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; and other evidence surrounding the circumstances of the incident which indicates that the operator has been operating an electric scooter while impaired by the consumption of alcohol or drugs or was intoxicated at the time of the incident.

6. Chemical test evidence. (a) Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision five of this section.

(b) The following effect shall be given to evidence of blood alcohol content, as determined by such tests, of a person arrested for a violation of any paragraph of subdivision one of this section and who was operating an electric scooter:

(i) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate an electric scooter was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition.

(ii) evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence but not be given prima facie effect, in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol.

(iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in his or her blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol.

(c) Evidence of a refusal to submit to a chemical test or any portion thereof shall be admissible in any trial or hearing provided the request to submit to such a test was made in accordance with the provisions of subdivision five of this section.

7. Limitations. (a) An electric scooter operator may be convicted of a violation of paragraphs (a), (b), (d) and (e) of subdivision one of this section, notwithstanding that the charge laid before the court alleged a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section, and regardless of whether or not such condition is based on a plea of guilty.

(b) In any case wherein the charge laid before the court alleges a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the paragraphs of subdivision one of this section

1 and no other disposition by plea of guilty to any other charge in satis-
2 faction of such charge shall be authorized; provided, however, if the
3 district attorney upon reviewing the available evidence determines that
4 the charge of a violation of subdivision one of this section is not
5 warranted, he or she may consent, and the court may allow, a disposition
6 by a plea of guilty to another charge in satisfaction of such charge.

7 8. Enforcement upon crash. Notwithstanding any provision of this
8 section, no part of this section may be enforced unless in conjunction
9 with a crash involving an operator of an electric scooter. For the
10 purposes of this subdivision, crash shall mean falling to the ground or
11 colliding with a vehicle, person, building or other object.

12 § 5. This act shall take effect immediately.

13 PART BBB

14 Section 1. Section 410 of the economic development law is REPEALED.

15 § 2. Section 3102-b of public authorities law, as added by chapter 562
16 of the laws of 1982 and as renumbered by chapter 291 of the laws of
17 1990, the opening paragraph as amended by chapter 616 of the laws of
18 1991, paragraph (a) of subdivision 1, subdivision 3 and paragraph (a) of
19 subdivision 6 as amended by chapter 191 of the laws of 2010, subdivi-
20 sions 5 and 6 as added by chapter 828 of the laws of 1987, is amended to
21 read as follows:

22 § 3102-b. Centers for advanced technology. In order to encourage
23 greater collaboration between private industry and the universities of
24 the state in the development and application of new technologies, the
25 [~~foundation~~] department of economic development (hereinafter "depart-
26 ment") is authorized to designate for advanced technology such areas as
27 integrated electronics, optics, biotechnology, telecommunications, auto-
28 mation and robotics, electronics packaging, imaging technology and
29 others identified by the [~~foundation~~] department as having significant
30 potential for economic growth in New York, or in which the application
31 of new technologies could significantly enhance the productivity and
32 stability of New York businesses. Such designations shall be made in
33 accordance with the standards and criteria set forth in subdivision two
34 of this section. Centers so designated shall be eligible for support
35 from the [~~foundation~~] department in the manner provided for in subdivi-
36 sion three of this section, and for such additional support as may
37 otherwise be provided by law.

38 1. As used in this section:

39 (a) "center for advanced technology" or "center" means a university or
40 university-affiliated research institute or a consortium of such insti-
41 tutions, designated by the [~~foundation~~] department, which conducts a
42 continuing program of basic and applied research, development, and tech-
43 nology commercialization in one or more technological areas, in collab-
44 oration with and through the support of private business and industry;
45 and

46 (b) "applicant" means a university or university-affiliated research
47 institute or a consortium of such institutions which request designation
48 as a center in accordance with such requirements as are established by
49 the [~~foundation~~] department for this purpose. For the purposes of this
50 subdivision, universities, university-affiliated research institutes or
51 a consortium of such institutions designated as centers of excellence
52 under section four hundred ten of the economic development law at the
53 time of the effective date of the chapter of the laws of two thousand

twenty that amended this subdivision may apply for designation as centers for advanced technology.

2. The [~~foundation~~] department shall:

(a) identify technological areas for which centers should be designated including technological areas that are related to industries with significant potential for economic growth and development in New York state and technological areas that are related to the enhancement of productivity in various industries located in New York state.

(b) establish criteria that applicants must satisfy for designation as a center, including, but not limited to the following:

(i) an established record of research, development and instruction in the area or areas of technology involved;

(ii) the capacity to conduct research and development activities in collaboration with business and industry;

(iii) the capacity to secure substantial private and other governmental funding for the proposed center, in amounts at least equal to the total of support sought from the state;

(iv) the ability and willingness to cooperate with other institutions in the state in conducting research and development activities, and in disseminating research results; and to work with technical and community colleges in the state to enhance the quality of technical education in the area or areas of technology involved;

(v) the ability and willingness to cooperate with the [~~foundation~~] department and other economic development agencies in promoting the growth and development in New York state of industries based upon or benefiting from the area or areas of technology involved.

(c) establish such requirements as it deems appropriate for the format, content and filing of applications for designation as centers for advanced technology.

(d) establish such procedures as it deems appropriate for the evaluation of applications for designation as centers for advanced technology, including the establishment of peer review panels composed of nationally recognized experts in the technological areas and industries to which the application is related.

3. (a) From such funds as may be appropriated for this purpose by the legislature, the [~~foundation~~] department may provide financial support, through contracts or other means, to designated centers for advanced technology, in order to enhance and accelerate the development of such centers. Funds received pursuant to this subdivision may be used for purchase of equipment and fixtures, employment of faculty and support staff, provision of graduate fellowships, and other purposes approved by the [~~foundation~~] department, but may not be used for capital construction. In each case, the amount provided by the [~~foundation~~] department to a center shall be matched by commitments of support from private and governmental other than state sources provided that:

(i) funds or in-kind resources provided by the public or private university of which the center is a part may be counted towards the match;

(ii) such match shall not be required on a project-by-project basis;

(iii) matching funds received from businesses with no more than one hundred employees shall count as double the actual dollar amount toward the center's overall match requirement;

(iv) funds used by the center for any workforce development activities required by the [~~foundation~~] department shall not be included as part of the center's award when determining the amount of matching funds required by the [~~foundation~~] department. Such activities shall include,

1 but are not limited to, helping incumbent workers expand their skill
2 sets through short courses, seminars, and workshops; providing indus-
3 try-driven research assistant opportunities for students, and aiding in
4 the development of undergraduate and graduate courses in the center's
5 technology focus to help ensure that students are trained to meet the
6 needs of industry;

7 (v) centers may use not more than twenty-five percent of indirect
8 costs towards any match requirements.

9 (b) The amount provided by the [~~foundation~~] department shall be made
10 in accordance with the following:

11 (i) for the academic year in which it is first funded as a designated
12 center, and the five subsequent years, the amount provided by the [~~foun-~~
13 ~~dation~~] department to a center shall be matched equally by the center;

14 (ii) beginning in the sixth academic year following the academic year
15 in which a center is first funded as a designated center and for each
16 academic year thereafter, amounts provided by the [~~foundation~~] depart-
17 ment of up to seven hundred fifty thousand dollars shall be matched
18 equally by the center, amounts in excess of seven hundred fifty thousand
19 dollars shall be matched by the center in amounts of at least the
20 percentage set forth herein: in the sixth year, one hundred twenty
21 percent; in the seventh year, one hundred forty percent; in the eighth
22 year, one hundred sixty percent; in the ninth year, one hundred eighty
23 percent; in the tenth year and each year thereafter, two hundred
24 percent;

25 (iii) beginning in the ninth academic year following the academic year
26 in which a center is first funded as a designated center, the [~~foun-~~
27 ~~dation~~] department shall evaluate such center's area of advanced technolo-
28 gy to determine whether it has continued significant potential for
29 enhancing economic growth in New York, or whether the application of
30 technologies in the area could significantly enhance the productivity
31 and stability of New York businesses;

32 (iv) upon a finding by the [~~foundation~~] department that an area of
33 advanced technology has continued significant potential for enhancing
34 economic growth in New York, or that the application of technologies in
35 the area could significantly enhance the productivity and stability of
36 New York businesses, the [~~foundation~~] department will initiate a redesi-
37 gnation process in accordance with the standards and criteria set forth
38 in paragraph (b) of subdivision two and in accordance with paragraphs
39 (c) and (d) of subdivision two of this section.

40 (1) In the event a new center is selected in the redesignation proc-
41 ess, the [~~foundation~~] department shall provide funds to such new center
42 in accordance with the funding match requirements set forth in subpara-
43 graphs (i) and (ii) of paragraph (a) of this subdivision.

44 (2) In the event a previously designated center is redesignated in the
45 same area of technology, which redesignation is effective for the tenth
46 academic year following the first academic year of both designation and
47 funding, then, in that year and in each year thereafter, the [~~foun-~~
48 ~~dation~~] department shall provide funds of up to seven hundred fifty thou-
49 sand dollars to be matched equally by the center, amounts in excess of
50 seven hundred fifty thousand dollars shall be matched by the center in
51 amounts of at least two hundred percent.

52 (3) In the event a currently designated center is not selected in the
53 redesignation process for an additional term, or upon a finding by the
54 [~~foundation~~] department that the area of advanced technology does not
55 have significant potential for enhancing economic growth in New York, or
56 upon a finding that the application of technologies in that area would

1 not significantly enhance the productivity and stability of New York
2 businesses, then the [foundation] department shall, in the tenth academ-
3 ic year following such center's first both designation and funding,
4 which year shall be the final year of funding for such center, provide
5 an amount of up to five hundred thousand dollars.

6 (c) Continued funding of the operations of each center shall be based
7 upon a showing that: the center continues to comply with the criteria
8 established by the [foundation] department pursuant to paragraph (b) of
9 subdivision two of this section; a demonstration of assistance to small
10 businesses in New York state through research, technology transfer or
11 other means as approved by the [foundation] department; evidence of
12 partnerships with other appropriate entities to develop outreach
13 networks and ensure that companies receive access to appropriate federal
14 funding for technology development and commercialization as well as
15 non-research assistance such as general business consulting. Appropriate
16 partners are those with which the center demonstrates a relationship
17 that enhances and advances the center's ability to aid economic growth
18 in New York state; and compliance with the rules, regulations and guide-
19 lines of the [foundation] department; and, compliance with any contracts
20 between the [foundation] department and the designated center.

21 (d) Each center shall report on its activities to the [foundation]
22 department in a manner and according to the schedule established by the
23 [foundation] department, and shall provide such additional information
24 as the [foundation] department may require provided, that quantifiable
25 economic development impact measures are not restricted to any period
26 less than five years and that centers provide a full description of all
27 non-quantifiable measures. The [foundation] department shall evaluate
28 center operations using methods such as site visits, reporting of speci-
29 fied information and peer review evaluations using experts in the field
30 of technology in which the center was designated. The [foundation]
31 department shall notify each center of the results of its evaluations
32 and findings of deficiencies in the operation of such center or its
33 research, education, or technology commercialization activities and
34 shall work with such centers to remedy such findings. If such factors
35 are not remedied, the [foundation] department may withdraw the state
36 funding support, in whole or in part, or withdraw the center design-
37 nation.

38 (e) In order to encourage that the results of center research benefit
39 New York state, designation and continued funding of each center shall
40 be contingent upon each center's establishing within its licensing
41 guidelines the following: after payment of the inventor's share, a
42 reduced payment due to the university of any royalty, income or other
43 consideration earned from the license or sale of intellectual property
44 rights created or developed at, or through the use of, the facilities of
45 the center by any person or entity if the manufacturing or use resulting
46 from such intellectual property rights occurs within New York state. The
47 [foundation] department shall promulgate rules and regulations regarding
48 the provisions of the licensing guidelines described herein as they
49 apply to such reduced payment, and such provisions shall be subject to
50 the approval of the [foundation] department.

51 4. From such funds as may be appropriated for this purpose by the
52 legislature, the [foundation] department may provide grants to any one
53 university or university-affiliated research institution for purposes of
54 planning and program development aimed at enabling such university or
55 university-affiliated research institution to qualify for designation as
56 a center. Such grants shall be awarded on a competitive basis, and shall

1 be available only to those applicants which in the judgment of the
2 [~~foundation~~] department may reasonably be expected to be designated as
3 centers. No applicant shall receive more than one such grant.

4 5. (a) From such funds as may be appropriated for the purpose of
5 incentive grants or other funds which may be available from the [~~founda-~~
6 ~~tion~~] department to enhance center activities in areas of crucial inter-
7 est in the state's economic development, the [~~foundation~~] department may
8 provide grants, on a competitive basis, to centers for projects includ-
9 ing, but not limited to, those which:

10 (i) explore new technologies with commercial application conducted
11 jointly by two or more centers or a center and non-center university,
12 college or community college;

13 (ii) are aimed at enhancing or accelerating the process of bringing
14 new products, particularly those under development by new small busi-
15 nesses, to the marketplace; or

16 (iii) increase technology transfer projects with the state's mature
17 manufacturing industries in applying technology in their manufacturing
18 processes or for new product development.

19 (b) State support for incentive grants may be matched on an individual
20 basis by the [~~foundation~~] department, which may consider the type of
21 project and the availability of amounts from private, university and
22 governmental, other than state, sources.

23 6. (a) The [~~foundation~~] department shall make an annual report of the
24 centers for advanced technology program to the governor and the legisla-
25 ture not later than September first of each year. Such report shall
26 include, but not be limited to, the results of the [~~foundation's~~]
27 department's evaluation of each center, a description of the achievement
28 of each center, any deficiencies in the operation of each center or its
29 research, education and technology commercialization activities, remedial
30 actions recommended by the [~~foundation~~] department, remedial actions
31 taken by each center, a description of the small business assistance
32 provided by each center, a description of any incentive grant program
33 awarded a grant by the [~~foundation~~] department and the achievements of
34 such program, and the amount of financial assistance provided by the
35 [~~foundation~~] department and the level of matching funds provided by each
36 center and the uses of such monies.

37 (b) Annual reports shall include a discussion of any fields of tech-
38 nology that the [~~foundation~~] department has identified as having signif-
39 icant potential for economic growth or improved productivity and stabil-
40 ity of New York businesses and in which no center for advanced
41 technology has been designated and recommendations of the [~~foundation~~]
42 department as to actions that should be taken.

43 § 3. This act shall take effect immediately; provided, however that
44 section one of this act shall not take effect until June 30, 2021.

45 PART CCC

46 Section 1. Subsections (e) and (g) of section 7002 of the insurance
47 law, as amended by chapter 188 of the laws of 2003, are amended to read
48 as follows:

49 (e) "Industrial insured" means an insured:

50 (1) whose net worth exceeds one hundred million dollars;

51 (2) who is a member of a holding company system whose net worth
52 exceeds one hundred million dollars;

53 (3) who is the metropolitan transportation authority and its statutory
54 subsidiaries. When filing an application to form a pure captive insur-

1 ance company the metropolitan transportation authority shall submit
2 written notice of such filing to the governor, the temporary president
3 of the senate and the speaker of the assembly; ~~[or]~~

4 (4) who is the power authority of the state of New York and any statu-
5 tory subsidiary or affiliate thereof. When filing an application to form
6 a pure captive insurance company the power authority shall submit writ-
7 ten notice of such filing to the governor, the temporary president of
8 the senate and the speaker of the assembly; or

9 (5) who is a city with a population of one million or more. When
10 filing an application to form a pure captive insurance company, a city
11 with a population of one million or more shall submit written notice of
12 such filing to the governor, the temporary president of the senate and
13 the speaker of the assembly.

14 (g) "Industrial insured group" means any group of unaffiliated indus-
15 trial insureds that are engaged in similar or related businesses or
16 activities, however, the metropolitan transportation authority, the
17 power authority of the state of New York and any statutory subsidiary or
18 affiliate thereof and cities with a population of one million or more
19 shall not be a member of an industrial insured group, and that collec-
20 tively:

21 (1) own, control or hold with power to vote all of the outstanding
22 voting shares of stock of a group captive insurance company incorporated
23 as a stock insurer; or

24 (2) represent one hundred percent of the voting members of a group
25 captive insurance company organized as a mutual insurer.

26 § 2. Section 1005 of the public authorities law is amended by adding a
27 new subdivision 28 to read as follows:

28 28. The authority may establish a subsidiary corporation for the
29 purpose of forming a pure captive insurance company as provided in
30 section seven thousand two of the insurance law. The members of such
31 subsidiary corporation of the authority shall be the same persons hold-
32 ing the offices of members of the authority. Such subsidiary corporation
33 shall have all of the privileges, immunities, tax exemptions and other
34 exemptions of the authority and of the authority's property, functions
35 and activities. The subsidiary corporation of the authority shall be
36 subject to suit in accordance with section one thousand seventeen of
37 this title. The employees of any such subsidiary corporation, except
38 those who are also employees of the authority, shall not be deemed
39 employees of the authority.

40 § 3. Subdivision (a) of section 1500 of the tax law, as amended by
41 section 21 of part A of chapter 59 of the laws of 2014, is amended to
42 read as follows:

43 (a) The term "insurance corporation" includes a corporation, associ-
44 ation, joint stock company or association, person, society, aggregation
45 or partnership, by whatever name known, doing an insurance business,
46 and, notwithstanding the provisions of section fifteen hundred twelve of
47 this article, shall include (1) a risk retention group as defined in
48 subsection (n) of section five thousand nine hundred two of the insur-
49 ance law, (2) the state insurance fund and (3) a corporation, associ-
50 ation, joint stock company or association, person, society, aggregation
51 or partnership doing an insurance business as a member of the New York
52 insurance exchange described in section six thousand two hundred one of
53 the insurance law. The definition of the "state insurance fund"
54 contained in this subdivision shall be limited in its effect to the
55 provisions of this article and the related provisions of this chapter
56 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 percent on all or any part of the third twenty million dollars of premiums, and seventy-five thousandths of one percent on each dollar of premiums thereafter. The rate of the tax on assumed reinsurance premiums shall be two hundred twenty-five thousandths of one percent on all or any part of the first twenty million dollars of premiums, one hundred and fifty thousandths of one percent on all or any part of the second twenty million dollars of premiums, fifty thousandths of one percent on all or any part of the third twenty million dollars of premiums and twenty-five thousandths of one percent on each dollar of premiums thereafter. The tax imposed by this section shall be equal to the greater of (i) the sum of the tax imposed on gross direct premiums and the tax imposed on assumed reinsurance premiums or (ii) five thousand dollars.

§ 5. This act shall take effect immediately.

1

PART DDD

2 Section 1. Legislative findings and intent. The legislature hereby
3 finds, determines and declares the following:

4 The planning, development and operation of the Hudson River Park as a
5 public park continues to be a matter of importance to the state. As
6 detailed in the 1998 law creating the park and the trust, chapter 592 of
7 the laws of 1998, the creation, development, operation and maintenance
8 of the Hudson River Park will enhance and protect the natural, cultural
9 and historic aspects of the Hudson River, enhance and afford quality
10 public access to the river, allow for an array of cultural and recre-
11 ational programs and provide a host of other public benefits. The chang-
12 es to the 1998 law by this act are intended to, after decades of delay
13 and inaction, finally effectuate the park's general project plan as
14 defined in chapter 592 of the laws of 1998, which continues to be the
15 operative planning document guiding park development, protection and
16 reuse of a portion of the Hudson River waterfront in lower Manhattan
17 south of 59th street, and are intended to ensure the realization of that
18 vision and the park's continuing viability for years to come. Nothing
19 herein is intended to alter or override any prior determinations
20 concerning park planning, development or operation.

21 § 2. Paragraph (c) of subdivision 9 of section 7 of chapter 592 of the
22 laws of 1998, constituting the Hudson river park act, as amended by
23 chapter 517 of the laws of 2013, is amended to read as follows:

24 ~~(c) [The city of New York shall use best efforts to relocate the tow~~
25 ~~pound on Pier 76. Subsequent to relocation of the tow pound, the city of~~
26 ~~New York shall promptly convey to the trust a possessory interest in~~
27 ~~Pier 76 consistent with such interest previously conveyed with respect~~
28 ~~to other portions of the park, provided that at least fifty percent of~~
29 ~~the Pier 76 footprint shall be used for park uses that are limited to~~
30 ~~passive and active open space and which shall be contiguous to water and~~
31 ~~provided further that the remaining portion shall be for park/commercial~~
32 ~~use. Upon such conveyance, Pier 76 shall become part of the park.] (i)~~
33 On or before December 31, 2020, the city of New York shall convey to the
34 trust a possessory interest in Pier 76 consistent with such interest
35 previously conveyed with respect to other portions of the park. Upon
36 such conveyance, Pier 76 shall become part of the park and following
37 redevelopment at least fifty percent of the Pier 76 footprint shall be
38 used for park uses that are limited to passive and active open space and
39 which shall be contiguous to water; and provided further that the
40 remaining portion shall be for park/commercial use. (ii) The city of New
41 York shall, prior to December 31, 2020, cease using Pier 76 for any
42 purposes. Should the city of New York continue to occupy Pier 76 for any
43 purpose subsequent to the conveyance of December 31, 2020, the city of
44 New York shall (A) compensate the trust in the amount of twelve million
45 dollars, and (B) beginning February 1, 2021, pay rent in the amount of
46 three million dollars for each complete or partial month of occupancy.
47 (iii) On or after the effective date of the chapter of the laws of 2020
48 which amended this paragraph, the trust shall be entitled to reasonable
49 access to Pier 76 for the purpose of conducting assessments and
50 inspections necessary to further redevelopment of Pier 76 following its
51 inclusion in the park.

52 § 3. This act shall take effect immediately.

53

PART EEE

1 Section 1. Section 5 of chapter 451 of the laws of 2017, enacting the
2 New York Buy American Act, is amended to read as follows:

3 § 5. This act shall take effect April 1, 2018 and shall apply to any
4 state contracts executed and entered into on or after such date and
5 shall exclude such contracts that have been previously awarded or have
6 pending bids or pending requests for proposals issued as of April 1,
7 2018, and shall not apply to projects that have commenced project design
8 and environmental studies prior to such date[~~;- provided, however, that~~
9 ~~this act shall expire and be deemed repealed April 15, 2020~~].

10 § 2. This act shall take effect immediately.

11 PART FFF

12 Section 1. The labor law is amended by adding a new section 224-a to
13 read as follows:

14 § 224-a. Prevailing wage requirements applicable to construction
15 projects performed under private contract. 1. Subject to the provisions
16 of this section, each "covered project" as defined in this section shall
17 be subject to prevailing wage requirements in accordance with section
18 two hundred twenty and two hundred twenty-b of this article. A "covered
19 project" shall mean construction work done under contract which is paid
20 for in whole or in part out of public funds as such term is defined in
21 this section where the amount of all such public funds, when aggregated,
22 is at least thirty percent of the total construction project costs and
23 where such project costs are over five million dollars except as
24 provided for by section two hundred twenty-four-c of this article.

25 2. For purposes of this section, "paid for in whole or in part out of
26 public funds" shall mean any of the following:

27 a. The payment of money, by a public entity directly to or on behalf
28 of the contractor, subcontractor, developer or owner that is not subject
29 to repayment;

30 b. The savings achieved from fees, rents, interest rates, or other
31 loan costs, or insurance costs that are lower than market rate costs;
32 savings from reduced taxes as a result of tax credits, tax abatements,
33 tax exemptions or tax increment financing; and any other savings from
34 reduced, waived, or forgiven costs that would have otherwise been at a
35 higher or market rate but for the involvement of the public entity;

36 c. Money loaned by the public entity that is to be repaid on a contin-
37 gent basis; or

38 d. Credits that are applied by the public entity against repayment of
39 obligations to the public entity.

40 3. For purposes of this section, "paid for in whole or in part out of
41 public funds" shall not include:

42 a. Benefits under section four hundred twenty-one-a of the real prop-
43 erty tax law;

44 b. Funds that are not provided primarily to promote, incentivize, or
45 ensure that construction work is performed, which would otherwise be
46 captured in subdivision two of this section;

47 c. Funds used to incentivize or ensure the development of a comprehen-
48 sive sewage system, including connection to existing sewer lines or
49 creation of new sewage lines or sewer capacity, provided, however, that
50 such work shall be deemed to be a public work covered under the
51 provisions of this article;

52 d. tax benefits provided for projects the value of which are not able
53 to be calculated at the time the work is to be performed; and

1 e. any other public monies, credits, savings or loans, determined by
2 the public subsidy board created in section two hundred twenty-four-c of
3 this article as exempt from this definition.

4 4. For purposes of this section "covered project" shall not include
5 any of the following:

6 a. Construction work on one or two family dwellings where the property
7 is the owner's primary residence, or construction work performed on
8 property where the owner of the property owns no more than four dwelling
9 units;

10 b. Construction work performed under a contract with a not-for-profit
11 corporation as defined in section one hundred two of the not-for-profit
12 corporation law, other than a not-for-profit corporation formed exclu-
13 sively for the purpose of holding title to property and collecting
14 income thereof or a local development corporation formed pursuant to
15 section fourteen hundred eleven of the not-for-profit corporation law,
16 where the not-for-profit corporation has gross annual revenue and
17 support less than five million dollars;

18 c. Construction work performed on a multiple residence and/or ancil-
19 lary amenities or installations that is wholly privately owned in any of
20 the following circumstances except as provided for by section two
21 hundred twenty-four-c of this article:

22 (i) where no less than thirty percent of the residential units are
23 affordable for households up to eighty percent of the area median
24 income, provided that area median income shall be adjusted for family
25 size, as calculated by the United States department of housing and urban
26 development, provided that the period of affordability for a residential
27 unit deemed affordable under the provisions of this paragraph shall be
28 for no less than fifteen years from the date of construction; or

29 (ii) where no less than thirty-five percent of the residential units
30 involves the provision of supportive housing services for vulnerable
31 populations;

32 (iii) where construction work is performed on a building paid for in
33 whole or in part out of public funds on affordable units for purposes of
34 ensuring that the affordable units are created or retained and are
35 subject to a regulatory agreement with a local, state, or federal
36 governmental entity; or

37 (iv) any other affordable or subsidized housing as determined by the
38 public subsidy board established by section two hundred twenty-four-c of
39 this article.

40 d. Construction work performed on a manufactured home park as defined
41 in paragraph three of subdivision a of section two hundred thirty-three
42 of the real property law where the manufactured home park is subject to
43 a regulatory agreement with a local, state, or federal governmental
44 entity for no less than fifteen years;

45 e. Construction work performed under a pre-hire collective bargaining
46 agreement between an owner or contractor and a bona fide building and
47 construction trade labor organization which has established itself as
48 the collective bargaining representative for all persons who will
49 perform work on such a project, and which provides that only contractors
50 and subcontractors who sign a pre-negotiated agreement with the labor
51 organization can perform work on such a project, or construction work
52 performed under a labor peace agreement, project labor agreement, or any
53 other construction work performed under an enforceable agreement between
54 an owner or contractor and a bona fide building and construction trade
55 labor organization;

1 f. Construction work performed on projects funded by section sixteen-n
2 of the urban development corporation act or the downtown revitalization
3 initiative;

4 g. Construction work and engineering and consulting services performed
5 in connection with the installation of a renewable energy system, renew-
6 able heating or cooling system, or energy storage system, with a capaci-
7 ty equal to or under five megawatts alternating current;

8 h. Construction work performed on supermarket retail space built or
9 renovated with tax incentives provided under the food retail expansion
10 to support health (FRESH) program through the New York city industrial
11 development agency;

12 i. Construction work performed for interior fit-outs and improvements
13 under ten thousand square feet through small business incubation
14 programs operated by the New York city economic development corporation;

15 j. Construction work on space to be used as a school under twenty
16 thousand square feet, pursuant to a lease from a private owner to the
17 New York city department of education and the school construction
18 authority; or

19 k. Construction work performed on projects that received tax benefits
20 related to brownfield remediation, brownfield redevelopment, or historic
21 rehabilitation pursuant to sections twenty-one, twenty-two, one hundred
22 eighty-seven-g or one hundred eighty-seven-h of the tax law, subdivi-
23 sions seventeen, eighteen, or twenty-six of section two hundred ten-B of
24 the tax law, subsections (dd), (ee), (oo) or (pp) of section six hundred
25 six of the tax law, or subdivisions (u), (v) or (y) of section fifteen
26 hundred eleven of the tax law.

27 5. For purposes of this section, "public entity" shall include, but
28 shall not be limited to, the state, a local development corporation as
29 defined in subdivision eight of section eighteen hundred one of the
30 public authorities law or section fourteen hundred eleven of the not-
31 for-profit corporation law, a municipal corporation as defined in
32 section one hundred nineteen-n of the general municipal law, an indus-
33 trial development agency formed pursuant to article eighteen-A of the
34 general municipal law or industrial development authorities formed
35 pursuant to article eight of the public authorities law, and any state,
36 local or interstate or international authorities as defined in section
37 two of the public authorities law; and shall include any trust created
38 by any such entities.

39 6. For purposes of this section, "construction" means work which shall
40 be as defined by the public subsidy board to require payment of prevail-
41 ing wage, and which may involve the employment of laborers, workers, or
42 mechanics.

43 7. For purposes of this section and section two hundred twenty-four-b
44 of this article, the "fiscal officer" shall be deemed to be the commis-
45 sioner.

46 8. The enforcement of any construction work deemed to be a covered
47 project pursuant to this section, and any additional requirements, shall
48 be subject, in addition to this section, only to the requirements of
49 sections two hundred twenty, two hundred twenty-four-b, two hundred
50 twenty-four-c, and two hundred twenty-b of this article and within the
51 jurisdiction of the fiscal officer; provided, however, nothing contained
52 in this section shall be deemed to construe any covered project as
53 otherwise being considered public work pursuant to this article; and
54 further provided:

55 a. The owner or developer of such covered project shall certify under
56 penalty of perjury within five days of commencement of construction work

1 whether the project at issue is subject to the provisions of this
2 section through the use of a standard form developed by the fiscal offi-
3 cer.

4 b. The owners or developers of a property who are undertaking a
5 project under private contract, may seek guidance from the public subsi-
6 dy board contained in section two hundred twenty-four-c of this article,
7 and such board may render an opinion as to whether or not the project is
8 a covered project within the meaning of this article. Any such determi-
9 nation shall not be reviewable by the fiscal officer, nor shall it be
10 reviewable by the department pursuant to section two hundred twenty of
11 this article.

12 c. The owner or developer of a covered project shall be responsible
13 for retaining original payroll records in accordance with section two
14 hundred twenty of this article for a period of six years from the
15 conclusion of such work. All payroll records maintained by an owner or
16 developer pursuant to this section shall be subject to inspection on
17 request of the fiscal officer. Such owner or developer may authorize
18 the prime contractor of the construction project to take responsibility
19 for retaining and maintaining payroll records, but will be held jointly
20 and severally liable for any violations of such contractor. All records
21 obtained by the fiscal officer shall be subject to the Freedom of Infor-
22 mation Law.

23 d. Each public entity providing any of the public funds listed in
24 subdivision two of this section to an owner, developer, contractor or
25 subcontractor of a project shall identify the nature and dollar value of
26 such funds and whether any such funds are excluded under subdivision
27 three of this section and shall so notify the recipient of such funds of
28 such determination and of their obligations under paragraph a of this
29 subdivision.

30 e. The fiscal officer may issue rules and regulations governing the
31 provisions of this section. Violations of this section shall be grounds
32 for determinations and orders pursuant to section two hundred twenty-b
33 of this article.

34 9. Each owner and developer subject to the requirements of this
35 section shall comply with the objectives and goals of minority and
36 women-owned business enterprises pursuant to article fifteen-A of the
37 executive law and service-disabled veteran-owned businesses pursuant to
38 article seventeen-B of the executive law. The department in consulta-
39 tion with the directors of the division of minority and women's business
40 development and of the division of service-disabled veterans' business
41 development shall make training and resources available to assist minor-
42 ity and women-owned business enterprises and service-disabled veteran-
43 owned business enterprises on covered projects achieve and maintain
44 compliance with prevailing wage requirements. The department shall make
45 such training and resources available online and shall afford minority
46 and women-owned business enterprises and service-disabled veteran-owned
47 business enterprises an opportunity to submit comments on such training.

48 10. a. The fiscal officer shall report to the governor, the temporary
49 president of the senate, and the speaker of the assembly by July first,
50 two thousand twenty-two, and annually thereafter, on the participation
51 of minority and women-owned business enterprises in relation to covered
52 projects and contracts for public work subject to the provisions of this
53 section and section two hundred twenty of this article respectively as
54 well as the diversity practices of contractors and subcontractors
55 employing laborers, workers, and mechanics on such projects.

1 b. Such reports shall include aggregated data on the utilization and
2 participation of minority and women-owned business enterprises, the
3 employment of minorities and women in construction-related jobs on such
4 projects, and the commitment of contractors and subcontractors on such
5 projects to adopting practices and policies that promote diversity with-
6 in the workforce. The reports shall also examine the compliance of
7 contractors and subcontractors with other equal employment opportunity
8 requirements and anti-discrimination laws, in addition to any other
9 employment practices deemed pertinent by the commissioner.

10 c. The fiscal officer may require any owner or developer to disclose
11 information on the participation of minority and women-owned business
12 enterprises and the diversity practices of contractors and subcontrac-
13 tors involved in the performance of any covered project. It shall be
14 the duty of the fiscal officer to consult and to share such information
15 in order to effectuate the requirements of this section.

16 11. If construction work is not deemed to be a covered project, wheth-
17 er by virtue of an exclusion of such project under subdivision four of
18 this section, or by virtue or not receiving sufficient public money to
19 be deemed "paid for in whole or in part out of public funds", such
20 project shall not be subject to the requirements of sections two hundred
21 twenty and two hundred twenty-b of this article.

22 § 2. The labor law is amended by adding two new sections 224-b and
23 224-c to read as follows:

24 § 224-b. Stop-work orders. Where a complaint is received pursuant to
25 this article, or where the fiscal officer upon his or her own investi-
26 gation, finds cause to believe that any person, in connection with the
27 performance of any contract for public work pursuant to section two
28 hundred twenty of this article or any covered project pursuant to
29 section two hundred twenty-four-a of this article, has substantially and
30 materially failed to comply with or intentionally evaded the provisions
31 of this article, the fiscal officer may notify such person in writing of
32 his or her intention to issue a stop-work order. Such notice shall (i)
33 be served in a manner consistent with section three hundred eight of the
34 civil practice law and rules; (ii) notify such person of his or her
35 right to a hearing; and (iii) state the factual basis upon which the
36 fiscal officer has based his or her decision to issue a stop-work order.
37 Any documents, reports, or information that form a basis for such deci-
38 sion shall be provided to such person within a reasonable time before
39 the hearing. Such hearing shall be expeditiously conducted.

40 Following the hearing, if the fiscal officer issues a stop-work order,
41 it shall be served by regular mail, and a second copy may be served by
42 telefacsimile or by electronic mail, with service effective upon receipt
43 of any such order. Such stop-work order shall also be served with regard
44 to a worksite by posting a copy of such order in a conspicuous location
45 at the worksite. The order shall remain in effect until the fiscal offi-
46 cer directs that the stop-work order be removed, upon a final determi-
47 nation on the complaint or where such failure to comply or evade has
48 been deemed corrected. If the person against whom such order is issued
49 shall within thirty days after issuance of the stop-work order makes an
50 application in affidavit form for a redetermination review of such order
51 the fiscal officer shall make a decision in writing on the issues raised
52 in such application. The fiscal officer may direct a conditional release
53 from a stop-work order upon a finding that such person has taken mean-
54 ingful and good faith steps to comply with the provisions of this arti-
55 cle.

1 § 224-c. Public subsidy board. 1. A board on public subsidies, herein-
2 after "the board", is hereby created, to consist of eleven members. The
3 eleven members shall be appointed by the governor as follows: one member
4 upon the recommendation of the temporary president of the senate, one
5 member upon the recommendation of the speaker of the assembly, the
6 commissioner, the president of the empire state development corporation,
7 the director of the division of the budget, one person representing
8 employees in the construction industry, and one person representing
9 employers in the construction industry. The commissioner shall act as
10 the chair. The members shall serve at the pleasure of the authority
11 recommending, designating, or otherwise appointing such member and shall
12 serve without salary or compensation but shall be reimbursed for neces-
13 sary expenses incurred in the performance of their duties.

14 2. The board shall meet on an as needed basis and shall have the power
15 to conduct public hearings. The board may also consult with employers
16 and employees, and their respective representatives, in the construction
17 industry and with such other persons, including the commissioner, as it
18 shall determine. No public officer or employee appointed to the board
19 shall forfeit any position or office by virtue of appointment to such
20 board. Any proceedings of the board which relate to a particular indi-
21 vidual or project shall be confidential.

22 3. The board may examine and make recommendations which shall have the
23 full force and effect of law, regarding the following:

24 (a) the minimum threshold percentage of public funds set forth in
25 subdivision one of section two hundred twenty-four-a of this article;

26 (b) the minimum dollar threshold of projects set forth in subdivision
27 one of section two hundred twenty-four-a of this article;

28 (c) construction work excluded as a covered project, as set forth in
29 subparagraphs (i), (ii) and (iii) of paragraph c of subdivision four of
30 section two hundred twenty-four-a of this article;

31 (d) the definition of construction for purposes of section two hundred
32 twenty-four-a of this article; or

33 (e) particular instances of benefits, monies or credits as to whether
34 or not they should constitute public funds.

35 4. In making its recommendations, the board shall examine the impact
36 of such thresholds and circumstances on private development in light of
37 available public subsidies, existing labor market conditions, prevailing
38 wage and supplement practices, and shall consider the extent to which
39 adjustments to such thresholds and circumstances could ameliorate
40 adverse impacts, if any, or expand opportunities for prevailing wage and
41 supplement standards on publicly subsidized private construction
42 projects in any region or regions of the state.

43 5. The board shall be empowered to issue binding determinations to any
44 public entity, or any private or not-for-profit owner or developer as to
45 any particular matter related to an existing or potential covered
46 project. In such instances the board shall make a determination based
47 upon documents, or testimony, or both in its sole discretion. Any such
48 proceeding shall be confidential. The determination issued by the board
49 shall be final, and may not be appealed to the commissioner, nor shall
50 any private right of action accrue to any individual to enforce the
51 terms of this article.

52 § 3. The labor law is amended by adding a new section 813-a to read as
53 follows:

54 § 813-a. Annual reports by apprenticeship programs. 1. On an annual
55 basis, all apprenticeship programs covered under the provisions of this
56 article shall report to the department on the participation of appren-

1 tices currently enrolled in such apprenticeship program. The data to be
2 included in such report shall include, at a minimum: (a) the total
3 number of apprentices in such apprenticeship program; (b) the demograph-
4 ic information of such apprentices to the extent such data is available,
5 including, but not limited to, the age, gender, race, ethnicity, and
6 national origin of such apprentices; (c) the rate of advancement and
7 graduation of such apprentices; and (d) the rate of placement of such
8 apprentices onto job sites as well as the demographic information of
9 such apprentices to the extent such data is available, including, but
10 not limited to the age, gender, race, ethnicity, and national origin of
11 such apprentices.

12 2. The department shall make such data publicly available on its
13 website by July first, two thousand twenty-two and on an annual basis,
14 but no later than December thirty-first of each following year.

15 3. The commissioner may promulgate rules and regulations necessary for
16 the implementation of this section.

17 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-
18 sion, or section of this act shall be adjudged by any court of competent
19 jurisdiction to be invalid, such judgment shall not affect, impair, or
20 invalidate the remainder thereof, but shall be confined in its operation
21 to the clause, sentence, paragraph, subdivision, or section thereof
22 directly involved in the controversy in which such judgment shall have
23 been rendered. It is hereby declared to be the intent of the legislature
24 that this act would have been enacted even if such invalid provisions
25 had not been included herein.

26 § 5. This act shall take effect on July 1, 2021 and shall apply to
27 contracts for construction executed, incentive agreements executed,
28 procurements or solicitations issued, or applications for building
29 permits on or after such date; provided however that this act shall not
30 apply to any appropriations of public funds made prior to the day on
31 which this act shall have become a law, or to re-appropriations of such
32 funds first appropriated prior to the day on which this act shall have
33 become a law. Effective immediately, the addition, amendment and/or
34 repeal of any rule or regulation necessary for the implementation of
35 this act on its effective date are authorized to be made and completed
36 on or before such effective date.

37 PART GGG

38 Section 1. The legislature hereby establishes the New York digital
39 marketplace worker classification task force (hereinafter referred to as
40 the "task force") to provide the governor and the legislature with a
41 legislative recommendation addressing the conditions of employment and
42 classification of workers in the modern economy of on-demand workers
43 connected to customers via the internet.

44 § 2. 1. The task force shall consist of nine members to be appointed
45 as follows:

- 46 a. seven members appointed by the governor;
- 47 b. one member appointed by the temporary president of the senate; and
- 48 c. one member appointed by the speaker of the assembly.

49 2. The members of the task force shall include but not be limited to
50 representatives of businesses impacted, labor groups and workers.

51 3. The members of the task force shall receive no compensation for
52 their services but shall be allowed their actual and necessary expenses
53 incurred in the performance of their duties pursuant to this act.

1 4. Any vacancies in the membership of the task force shall be filled
2 in the same manner provided for in the initial appointment.

3 5. The task force may consult with any organization, government enti-
4 ty, or person, in the development of its legislative recommendation
5 report required under section three of this act.

6 § 3. On or before May 1, 2020, the task force shall submit to the
7 governor, the temporary president of the senate and the speaker of the
8 assembly, a legislative recommendation containing, but not limited to,
9 the following:

10 a. the necessary wages sufficient to provide adequate maintenance and
11 to protect the health of the workers engaged in work in the modern econ-
12 omy, addressing specific categories of benefits available to workers;

13 b. the proper classification of workers;

14 c. the criteria necessary to determine if a worker is an employee;

15 d. laws regulating safety and health for workers currently classified
16 as independent contractors;

17 e. collective bargaining;

18 f. the availability of anti-discrimination, opportunity and privacy
19 protections for workers currently classified as independent contractors;
20 and

21 g. any other statutory changes necessary.

22 § 4. The labor law is amended by adding a new section 44 to read as
23 follows:

24 § 44. Classification of digital marketplace workers. a. For purposes
25 of this section, "digital marketplace company" means an organization,
26 including, but not limited to a corporation, limited liability company,
27 partnership, sole proprietor, or any other entity, that operates a
28 website or smartphone application, or both, that customers use to
29 purchase, schedule and/or otherwise arrange services including, but not
30 limited to repair, maintenance, construction, painting, assembly, clean-
31 ing, laundry, housekeeping, delivery, transportation, cooking, tutoring,
32 massage, acupuncture, babysitting, home care, healthcare, first aid,
33 companionship, or instruction, and where such company utilizes one or
34 more individuals to provide such services. Such organization: (i) estab-
35 lishes the gross amounts earned by the individual providing such
36 services; (ii) establishes the amounts charged to the consumer; (iii)
37 collects payment from the consumer; (iv) pays the individual; or any
38 combination of the foregoing actions; and the individual may provide
39 such services in the name of the individual, or in the name of a busi-
40 ness, or as a separate business entity, and without regard the consumer
41 of such personal services may be an individual, business, other entity,
42 or any combination thereof. Provided, however, no governmental entity
43 shall be considered a digital marketplace company.

44 b. (1) The commissioner is hereby authorized to promulgate regulations
45 determining the appropriate classification of individuals providing
46 services for a digital marketplace company as defined in subdivision a
47 of this section and such regulations shall have the force and effect of
48 law.

49 (2) Such regulations shall set forth the appropriate standard for
50 determination of whether a worker should be classified as an employee or
51 an independent contractor, and shall consider the following conditions:
52 (i) whether the individual is free from the control and direction of the
53 digital marketplace company in connection with the performance of the
54 work; (ii) whether the individual performs work that is outside the
55 usual course of the digital marketplace company's business; and (iii)
56 whether the individual is customarily engaged in an independently estab-

1 lished trade, occupation, profession or business that is similar to the
2 service at issue.

3 (3) Workers classified as employees as provided for in this section or
4 who satisfy any other legal test for employment, or have been determined
5 by a court or administrative agency to be employees, shall not have any
6 rights or protections diminished by application of this section.

7 c. The commissioner may exempt any company from application of this
8 section, provided such company has entered into a collectively negoti-
9 ated agreement with a recognized collective bargaining agent.

10 § 5. This act shall take effect immediately; provided, however, that
11 section four of this act shall take effect May 1, 2020.

12 PART HHH

13 Section 1. Section 89-w of the general business law, as added by chap-
14 ter 634 of the laws of 1994, is amended to read as follows:

15 § 89-w. Applicability. The provisions of this article shall not apply
16 to a not-for-profit security guard company or public entity which hires
17 a security guard or guards for a specific event or events solely for its
18 own proprietary use and which employs such security guards only on a
19 temporary basis for a total period not exceeding [~~fifteen~~] twenty days
20 per year.

21 § 2. This act shall take effect immediately.

22 PART III

23 Section 1. Subdivision 3 of section 16-o of section 1 of chapter 174
24 of the laws of 1968 constituting the New York state urban development
25 corporation act, as added by chapter 186 of the laws of 2007, is amended
26 to read as follows:

27 3. Establishment and purposes. The corporation shall establish a fund
28 to be known as the "community development financial institutions fund"
29 and shall pay into such fund any monies made available to the corpo-
30 ration for such fund from any source. The monies held in or credited to
31 the fund shall be expended solely for the purposes set forth in this
32 section. The corporation shall not commingle the monies of such fund
33 with any other monies of the corporation or any monies held in trust by
34 the corporation. The corporation is authorized, [~~within~~] subject to
35 available [~~appropriations~~] funding, to provide financial and technical
36 assistance to community development financial institutions that make
37 loans and provide development services to specific investment areas or
38 targeted populations.

39 § 2. This act shall take effect immediately.

40 PART JJJ

41 Section 1. This act shall be known as the "accelerated renewable ener-
42 gy growth and community benefit act".

43 § 2. Legislative findings and statement of purpose. The legislature
44 hereby finds, determines and declares:

45 1. Chapter 106 of the laws of 2019 enacted the New York state climate
46 leadership and community protection act (the "CLCPA") among other
47 things:

48 (a) directed the department of environmental conservation to establish
49 a statewide greenhouse gas emissions limit as a percentage of 1990 emis-

sions as follows: (i) 2030: 60% of 1990 emissions; and (ii) 2050: 15% of 1990 emissions;

(b) directed the public service commission ("commission") to establish programs to require that a minimum of 70% statewide electric generation be produced by renewable energy systems by 2030, and that by the year 2040 the statewide electrical demand system will generate zero emissions; and

(c) directed the commission to require the procurement by the state's jurisdictional load serving entities of at least 9 gigawatts of offshore wind electricity generation by 2035 and six gigawatts of photovoltaic solar generation by 2025, and to support three gigawatts of statewide energy storage capacity by 2030 (collectively, the "CLCPA targets").

2. In order to achieve the CLCPA targets, the state shall take appropriate action to ensure that:

(a) new renewable energy generation projects can be sited in a timely and cost-effective manner; and

(b) renewable energy can be efficiently and cost effectively injected into the state's distribution and transmission system for delivery to regions of the state where it is needed. In particular, the state shall provide for timely construction of new, expanded and upgraded distribution and transmission infrastructure as may be needed to access and deliver renewable energy resources, which may include alternating current transmission facilities, high voltage direct current transmission infrastructure facilities, and submarine transmission facilities needed to interconnect off-shore renewable generation resources to the state's transmission system.

3. A public policy purpose would be served and the interests of the people of the state would be advanced by directing the public service commission to make a comprehensive study of the state's power grid to identify distribution and transmission infrastructure needed to enable the state to meet the CLCPA targets, and based on such study, develop definitive plans that: (a) provide for the timely development of local transmission and distribution system upgrades by the state's regulated utilities and the Long Island power authority; (b) identify bulk transmission investments that should be undertaken, including projects that should be undertaken immediately and on an expedited basis by the power authority of the state of New York; and (c) otherwise advance the policies of this act.

4. A public policy purpose would be served and the interests of the people of the state would be advanced by:

(a) expediting the regulatory review for the siting of major renewable energy facilities and transmission infrastructure necessary to meet the CLCPA targets, in recognition of the importance of these facilities and their ability to lower carbon emissions;

(b) making available to developers of clean generation resources build-ready sites for the construction and operation of such renewable energy facilities;

(c) developing uniform permit standards and conditions that are applicable to classes and categories of renewable energy facilities, that reflect the environmental benefits of such facilities and addresses common conditions necessary to minimize impacts to the surrounding community and environment;

(d) providing for workforce training, especially in disadvantaged communities;

(e) implementing one or more programs to provide benefits to owners of land and communities where renewable energy facilities and transmission infrastructure would be sited;

(f) incentivizing the re-use or adaptation of sites with existing or abandoned commercial or industrial uses, such as brownfields, landfills, and former commercial or industrial sites, for the development of major renewable energy facilities and to restore and protect the value of taxable land and leverage existing resources; and

(g) establishing additional mechanisms to facilitate the achievement of a net conservation benefit to endangered or threatened species which may be impacted by the construction or operation of major renewable energy facilities.

§ 3. Paragraphs (c) and (d) of subdivision 4 of section 162 of the public service law, as added by chapter 388 of the laws of 2011, are amended and a new subdivision (e) is added to read as follows:

(c) To a major electric generating facility (i) constructed on lands dedicated to industrial uses, (ii) the output of which shall be used solely for industrial purposes, on the premises, and (iii) the generating capacity of which does not exceed two hundred thousand kilowatts; ~~[or]~~

(d) To a major electric generating facility if, on or before the effective date of the rules and regulations promulgated pursuant to this article and section 19-0312 of the environmental conservation law, an application has been made for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body, in which application the location of the major electric generating facility has been designated by the applicant; or if the facility is under construction at such time~~[-];~~ or

(e) To a major renewable energy facility as such term is defined in article twenty-three of the economic development law. Any person intending to construct a major renewable energy facility that has filed an application for a certificate pursuant to section one hundred sixty-four of this article which is pending with the commission as of the effective date of this paragraph, may, by written notice to the secretary of the commission, elect to become subject to the provisions of article twenty-three of the economic development law.

§ 4. Section 1 of chapter 174 of the laws of 1968, constituting the New York state urban development corporation act, is amended by adding a new section 16-bb to read as follows:

§ 16-bb. Green energy siting. There is hereby established within the corporation an office to implement the goals and objectives of title nine-B of article eight of the public authorities law. Such office shall work collaboratively with the New York state energy research and development authority, department of environmental conservation, and the New York state department of public service in the location, identification, assessment, acquisition, development, marketing and disposition of sites within the state that appear suitable for the development of major renewable energy facilities including sites to be developed as build-ready sites; to enter into any contract necessary to effectuate the parties responsibilities under this section and other applicable law; to request and receive assistance from any department, division, office, commission or other agency of the state or any political subdivision thereof to support the administration of the activities set forth herein; and to talk to all other actions that may be deemed necessary or convenient to implement the purposes of this section.

§ 5. Section 100 of the economic development law is amended by adding a new subdivision 46-a to read as follows:

46-a. The department, by and through the commissioner, shall be authorized to conduct hearings and dispute resolution proceedings, issue permits, and adopt such rules, regulations and procedures as may be necessary, convenient, or desirable to effectuate the purposes of article twenty-three of this chapter.

§ 6. The economic development law is amended by adding a new article 23 to read as follows:

ARTICLE 23

MAJOR RENEWABLE ENERGY DEVELOPMENT PROGRAM

Section 451. Purpose.

453. Definitions.

455. Office of renewable energy siting; responsibilities.

457. Applicability.

459. Application and review.

461. Powers of municipalities and state agencies and authorities; scope of article.

463. Fees; local agency account.

§ 451. Purpose. It is the purpose of this article to consolidate the environmental review and permitting of major renewable energy facilities in this state and to provide a single forum in which the office of renewable energy siting created by this article may undertake a coordinated and timely review of proposed major renewable energy facilities to meet the state's renewable energy goals while ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such facilities as more specifically provided in this article.

§ 453. Definitions. 1. "Commissioner" shall mean the commissioner of the department of economic development.

2. "CLCPA targets" shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

3. "Local agency account" or "account" shall mean the account established by the department pursuant to section four hundred sixty-three of this article.

4. "Local agency" means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.

5. "Office" shall mean the office of renewable siting established pursuant to this article.

6. "Department" shall mean the department of economic development.

7. "Major renewable energy facility" means any renewable energy system, as such term is defined in section sixty-six-p of the public service law as added by chapter one hundred six of the laws of two thousand nineteen, with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from such a renewable energy system prior to delivering it to the

1 bulk transmission system, including all associated appurtenances to
2 electric plants as defined under section two of the public service law,
3 including electric transmission facilities of any capacity or length in
4 order to provide access to load and to integrate such facilities into
5 the state's bulk electric transmission system.

6 8. "Siting permit" shall mean the major renewable energy facility
7 siting permit established pursuant to this article and the rules and
8 regulations promulgated by the department.

9 § 455. Office of renewable energy siting; responsibilities. 1. There
10 shall be created in the department an office of renewable energy siting
11 charged with accepting applications for evaluating, issuing, amending,
12 approving the assignment and/or transfer of, and enforcing siting
13 permits.

14 2. The office shall establish a set of uniform standards and condi-
15 tions for the siting, design, construction and operation of major renew-
16 able energy facilities relevant to issues that are common for particular
17 classes and categories of major renewable energy facilities, in consul-
18 tation with the New York state energy research and development authori-
19 ty, the department of environmental conservation, the department of
20 public service, the department of agriculture and markets, and other
21 relevant state agencies and authorities with subject matter expertise.

22 3. The uniform standards and conditions established pursuant to this
23 section shall be designed to avoid or minimize any potential significant
24 adverse environmental impacts related to the siting, design,
25 construction and operation of a major renewable energy facility, taking
26 into account the CLCPA targets and the environmental benefits of the
27 proposed major renewable energy facility. Such uniform standards and
28 conditions shall apply to those environmental impacts the department
29 determines are common to major renewable energy facilities.

30 4. In its review of an application for a permit to develop a major
31 renewable energy facility, the office shall identify those site-specific
32 environmental impacts, if any, that may be caused or exacerbated by a
33 specific proposed major renewable energy facility and are unable to be
34 addressed in accordance with the uniform standards and conditions. Where
35 appropriate, the department shall draft site specific permit terms and
36 conditions for such impacts, including provisions for the mitigation
37 thereof, taking into account the CLCPA targets and the environmental
38 benefits of the proposed major renewable energy facility. Such terms and
39 conditions may provide for an applicant's payment of a specified amount
40 in lieu of physical mitigation. Amounts paid by an applicant pursuant to
41 such terms and conditions for mitigation of impacts to endangered and
42 threatened species shall be deposited into the endangered and threatened
43 species mitigation fund established pursuant to section ninety-nine-hh
44 of the state finance law.

45 5. The department shall promulgate rules and regulations with respect
46 to all necessary requirements to implement the siting permit program
47 established in this article and promulgate modifications to such rules
48 and regulations as it deems necessary.

49 6. At the request of the office, all other state agencies and authori-
50 ties are hereby authorized to provide support and render services to the
51 office within their respective functions.

52 § 457. Applicability. 1. Following the effective date of this article,
53 no person shall commence the physical preparation of a site for, or
54 begin the construction of a major renewable energy facility in the
55 state, or increase the capacity of an existing major renewable energy
56 facility, without having first obtained a siting permit pursuant to this

1 article. Any such major renewable energy facility with respect to which
2 a siting permit is issued shall not thereafter be built, maintained, or
3 operated except in conformity with such siting permit and any terms,
4 limitations, or conditions contained therein, provided that nothing in
5 this section shall exempt such major renewable energy facility from
6 compliance with federal laws and regulations.

7 2. A siting permit issued by the office may be transferred or
8 assigned, subject to the prior written approval of the office, to a
9 person that agrees to comply with the terms, limitations and conditions
10 contained in such siting permit.

11 3. The office may amend any siting permit issued under this article.

12 4. Any hearings or dispute resolution proceedings initiated under this
13 article or pursuant to rules or regulations promulgated pursuant to this
14 article may be conducted by the commissioner or any person to whom the
15 commissioner shall delegate the power and authority to conduct such
16 hearings or proceedings in the name of the department at any time and
17 place.

18 5. This article shall not apply:

19 (a) to a major renewable energy facility, or any portion thereof, over
20 which any agency or department of the federal government has exclusive
21 siting jurisdiction, or has siting jurisdiction concurrent with that of
22 the state and has exercised such jurisdiction to the exclusion of regu-
23 lation of the facility by the state; provided, however, nothing herein
24 shall be construed to expand federal jurisdiction;

25 (b) to normal repairs, maintenance, replacements, non-material modifi-
26 cations and improvements of a major renewable energy facility, whenever
27 built, which are performed in the ordinary course of business and which
28 do not constitute a violation of any applicable existing permit;

29 (c) to a major renewable energy facility if, on or before the effec-
30 tive date of this article, an application has been made or granted for a
31 license, permit, certificate, consent or approval from any federal,
32 state or local commission, agency, board or regulatory body, including
33 article ten of the public service law, in which application the location
34 of the major renewable energy facility has been designated by the appli-
35 cant, except in the case of a person who elects to be subject to this
36 article as authorized by paragraph e of subdivision four of section one
37 hundred sixty-two of the public service law.

38 6. Any person intending to construct a major renewable energy facility
39 excluded from this article pursuant to paragraph (b) or (c) of subdivi-
40 sion five of this section may elect to become subject to the provisions
41 of this article by filing an application for a siting permit. This arti-
42 cle shall thereafter apply to each major renewable energy facility iden-
43 tified in such notice from the date of its receipt by the office. With
44 respect to such major renewable energy facilities, the rules and regu-
45 lations promulgated pursuant to this article shall set forth an expe-
46 ditied permitting process to account for matters and issues already
47 presented in relevant alternative permitting proceedings.

48 7. Any person intending to construct a facility that is a renewable
49 energy system, as such term is defined in section sixty-six-p of the
50 public service law as added by chapter one hundred six of the laws of
51 two thousand nineteen, with a nameplate capacity of at least ten thou-
52 sand but less than twenty-five thousand kilowatts or more, may apply to
53 become subject to the provisions of this article by filing an applica-
54 tion for a siting permit. Upon submission of such application, the
55 subject renewable energy facility shall be treated as a "major renewable

1 energy facility" exclusively for purposes of permitting under this arti-
2 cle.

3 § 459. Application and review. 1. Until the department establishes
4 uniform standards and conditions required by section four hundred
5 fifty-five of this article or promulgates regulations specifying the
6 content of an application for a siting permit, an application for a
7 siting permit submitted to the department shall conform substantially to
8 the form and content of an application required by section one hundred
9 sixty-four of the public service law.

10 2. Notwithstanding any law to the contrary, the office shall, within
11 sixty days of its receipt of an application for a siting permit deter-
12 mine whether the application is complete and notify the applicant of its
13 determination. If the department does not deem the application complete,
14 the department shall set forth in writing delivered to the applicant all
15 of the reasons why it has determined the application to be incomplete.
16 If the department fails to make a determination within the foregoing
17 sixty-day time period, the application shall be deemed complete.

18 3. a. No later than sixty days following the date upon which an
19 application has been deemed complete, and following consultation with
20 any relevant state agency or authority, the department shall publish for
21 public comment draft permit conditions prepared by the department, which
22 comment period shall be for a minimum of sixty days from public notice
23 thereof.

24 b. For any municipality, political subdivision or an agency thereof
25 that has received notice of the filing of an application, the munici-
26 pality shall within the timeframes established by this subdivision
27 submit a statement to the office indicating whether the proposed facili-
28 ty is designed to operate in compliance with applicable local laws and
29 regulations, if any, concerning the environment, public health and safe-
30 ty.

31 4. General expressions of disagreement with or general opposition to
32 the siting, design, construction and/or operation of a major renewable
33 energy facility during the public comment period shall not be considered
34 to be substantive or significant for purposes of this section. If public
35 comment on a draft permit condition published by the department pursuant
36 to this section, including comments provided by a municipality, raises a
37 substantive and significant issue that requires adjudication, the
38 department shall promptly fix a date for hearing to hear arguments and
39 consider evidence with respect thereto.

40 5. Following the expiration of the public comment period set forth in
41 this section, or following the conclusion of a hearing undertaken pursu-
42 ant to this section, as applicable the office shall promptly issue a
43 final siting permit to the applicant that includes such conditions the
44 office determines to be necessary to mitigate any potential significant
45 adverse environmental impact, and the office may elect not to apply, in
46 whole or in part, any local law or ordinance which would otherwise be
47 applicable if it finds that, as applied to the proposed major renewable
48 energy facility, is unreasonably burdensome in view of the CLCPA targets
49 and the environmental benefits of the proposed major renewable energy
50 facility.

51 6. In all respects, and notwithstanding any other deadline made appli-
52 cable by this article, the office shall make a final decision on a
53 siting permit for any major renewable energy project within one year
54 from the date the application was deemed complete, or within six months
55 from the date the application was deemed complete if the major renewable
56 energy facility is proposed to be sited on an existing or abandoned

1 commercial use, including without limitation, brownfields, landfills,
2 former commercial or industrial sites, and abandoned or otherwise under-
3 utilized sites, as further defined by the regulations promulgated by
4 this article. If a final siting permit decision has not been made by the
5 office within such time period then such siting permit shall be deemed
6 to have been automatically granted for all purposes set forth in this
7 article and all uniform conditions or site specific permit conditions
8 issued for public comment shall constitute enforceable provisions of the
9 siting permit.

10 7. Any party aggrieved by the issuance or denial of a permit under
11 this article may seek judicial review thereof only in a proceeding
12 pursuant to article seventy-eight of the civil practice law and rules by
13 filing of a petition within thirty days of the issuance or denial of the
14 permit.

15 § 461. Powers of municipalities and state agencies and authorities;
16 scope of article. 1. Notwithstanding any other provision of law,
17 including without limitation article eight of the environmental conser-
18 vation law and article seven of the public service law, no other state
19 agency, department or authority, or any local agency or political subdi-
20 vision or any agency thereof may, except as expressly authorized under
21 this article or the rules and regulations promulgated under this arti-
22 cle, require any approval, consent, permit, certificate, contract,
23 agreement, or other condition for the development, design, construction,
24 operation, or decommissioning of a major renewable energy facility with
25 respect to which an application for a siting permit has been filed,
26 provided in the case of a municipality, political subdivision or an
27 agency thereof, such entity has received notice of the filing of the
28 application therefor. Notwithstanding the foregoing, the department of
29 environmental conservation shall be the permitting agency for permits
30 issued pursuant to federally delegated or federally approved programs.

31 2. This article shall not impair or abrogate any federal, state or
32 local labor laws or any otherwise applicable state law for the
33 protection of employees engaged in the construction and operation of a
34 major renewable energy facility.

35 § 463. Fees; local agency account. 1. Each application for a siting
36 permit shall be accompanied by a fee in an amount equal to one thousand
37 dollars for each thousand kilowatts of capacity of the proposed major
38 renewable energy facility, and the office may update the fee period-
39 ically solely to account for inflation, to be deposited in an account to
40 be known as the local agency account established for the benefit of
41 local agencies by the New York state energy research and development
42 authority and maintained in a segregated account in the custody of the
43 commissioner of taxation and finance. The proceeds of such account shall
44 be disbursed by the office, in accordance with eligibility and proce-
45 dures established by the rules and regulations promulgated by the
46 department pursuant to this article, for the participation of local
47 agencies in public comment periods or hearing procedures established by
48 this article, including the rules and regulations promulgated hereto.

49 2. All funds so held by the New York state energy research and devel-
50 opment authority shall be subject to an annual independent audit as part
51 of such authority's audited financial statements, and such authority
52 shall prepare an annual report summarizing account balances and activ-
53 ities for each fiscal year ending March thirty-first and provide such
54 report to the office no later than ninety days after commencement of
55 such fiscal year.

1 3. With respect to a person who has filed an application for a siting
2 permit pursuant to section four hundred fifty-seven of this article, the
3 department of public service is hereby directed to refund to that person
4 any amounts held in an intervenor account established pursuant to arti-
5 cles seven and ten of the public service law, as applicable, and with
6 respect to such persons, the office shall address the appropriate treat-
7 ment of funds already disbursed from the intervenor fund in taking and
8 assessing application fees pursuant to this section.

9 4. In addition to the fees established pursuant to subdivision one of
10 this section, the department, pursuant to regulations adopted pursuant
11 to this section, may assess a fee for the purpose of recovering the
12 costs the department incurs related to reviewing and processing an
13 application submitted under this article.

14 § 7. Subdivision 7 of section 487 of the real property tax law, as
15 amended by chapter 515 of the laws of 2002, is amended to read as
16 follows:

17 7. If the assessor is satisfied that the applicant is entitled to an
18 exemption pursuant to this section, he or she shall approve the applica-
19 tion and enter the taxable assessed value of the parcel for which an
20 exemption has been granted pursuant to this section on the assessment
21 roll with the taxable property, with the amount of the exemption set
22 forth in a separate column as computed pursuant to subdivision two of
23 this section and, if applicable section five hundred seventy-five-b of
24 this chapter in a separate column. In the event that real property
25 granted an exemption pursuant to this section ceases to be used primari-
26 ly for eligible purposes, the exemption granted pursuant to this section
27 shall cease.

28 § 8. Subparagraph (a) of subdivision 9 of section 487 of the real
29 property tax law, as amended by chapter 344 of the laws of 2014, is
30 amended and a new subparagraph (c) is added to read as follows:

31 (a) A county, city, town, village or school district, except a school
32 district under article fifty-two of the education law, that has not
33 acted to remove the exemption under this section may require the owner
34 of a property which includes a solar or wind energy system which meets
35 the requirements of subdivision four of this section, to enter into a
36 contract for payments in lieu of taxes. Such contract may require annual
37 payments in an amount not to exceed the amounts which would otherwise be
38 payable but for the exemption under this section. ~~[If the owner or~~
39 ~~developer of such a system provides written notification to a taxing~~
40 ~~jurisdiction of its intent to construct such a system, then in order to~~
41 ~~require the owner or developer of such system to enter into a contract~~
42 ~~for payments in lieu of taxes, such taxing jurisdiction must notify such~~
43 ~~owner or developer of its intent to require a contract for payments in~~
44 ~~lieu of taxes within sixty days of receiving the written notification.]~~

45 (c) A county, city, town, village or school district that intends to
46 require a contract for payments in lieu of taxes pursuant to this
47 section shall, prior to execution of such contract, consult with the New
48 York state energy research and development authority in determining the
49 annual payments to be required in such contracts.

50 § 9. The real property tax law is amended by adding a new section
51 575-b to read as follows:

52 § 575-b. Solar or wind energy systems. The assessed value for solar or
53 wind energy system, as such term is defined in section four hundred
54 eighty-seven of this chapter, shall be determined by an income capital-
55 ization or discounted cash flow approach that includes the following:

1 1. An appraisal model identified and published by the department and
2 the New York state energy research and development authority; and
3 2. A discount rate published annually by the department and the New
4 York state energy research and development authority.

5 § 10. The third undesignated paragraph of section 852 of the general
6 municipal law, as amended by chapter 630 of the laws of 1977, is amended
7 to read as follows:

8 It is hereby further declared to be the policy of this state to
9 protect and promote the health of the inhabitants of this state and to
10 increase trade through promoting the development of facilities to
11 provide recreation for the citizens of the state and to attract tourists
12 from other states and to promote the development of renewable energy
13 projects to support the state's renewable energy goals as may be estab-
14 lished or amended from time to time.

15 § 11. Subdivision 4 of section 854 of the general municipal law, as
16 amended by section 6 of part J of chapter 59 of the laws of 2013, is
17 amended to read as follows:

18 (4) "Project" - shall mean any land, any building or other improve-
19 ment, and all real and personal properties located within the state of
20 New York and within or outside or partially within and partially outside
21 the municipality for whose benefit the agency was created, including,
22 but not limited to, machinery, equipment and other facilities deemed
23 necessary or desirable in connection therewith, or incidental thereto,
24 whether or not now in existence or under construction, which shall be
25 suitable for manufacturing, warehousing, research, commercial, renewable
26 energy or industrial purposes or other economically sound purposes iden-
27 tified and called for to implement a state designated urban cultural
28 park management plan as provided in title G of the parks, recreation and
29 historic preservation law and which may include or mean an industrial
30 pollution control facility, a recreation facility, educational or
31 cultural facility, a horse racing facility, a railroad facility, renewa-
32 ble energy project or an automobile racing facility, provided, however,
33 no agency shall use its funds or provide financial assistance in respect
34 of any project wholly or partially outside the municipality for whose
35 benefit the agency was created without the prior consent thereto by the
36 governing body or bodies of all the other municipalities in which a part
37 or parts of the project is, or is to be, located, and such portion of
38 the project located outside such municipality for whose benefit the
39 agency was created shall be contiguous with the portion of the project
40 inside such municipality.

41 § 12. Section 854 of the general municipal law is amended by adding a
42 new subdivision 21 to read as follows:

43 (21) "Renewable energy project" shall mean any project and associated
44 real property on which the project is situated, that utilizes any system
45 or equipment as set forth in section four hundred eighty-seven of the
46 real property tax law or as defined pursuant to paragraph b of subdivi-
47 sion one of section sixty-six-p of the public service law as added by
48 chapter one hundred six of the laws of two thousand nineteen.

49 § 13. The opening paragraph of section 858 of the general municipal
50 law, as amended by chapter 478 of the laws of 2011, is amended to read
51 as follows:

52 The purposes of the agency shall be to promote, develop, encourage and
53 assist in the acquiring, constructing, reconstructing, improving, main-
54 taining, equipping and furnishing industrial, manufacturing, warehous-
55 ing, commercial, research, renewable energy and recreation facilities
56 including industrial pollution control facilities, educational or

1 cultural facilities, railroad facilities, horse racing facilities, auto-
2 mobile racing facilities, renewable energy projects and continuing care
3 retirement communities, provided, however, that, of agencies governed by
4 this article, only agencies created for the benefit of a county and the
5 agency created for the benefit of the city of New York shall be author-
6 ized to provide financial assistance in any respect to a continuing care
7 retirement community, and thereby advance the job opportunities, health,
8 general prosperity and economic welfare of the people of the state of
9 New York and to improve their recreation opportunities, prosperity and
10 standard of living; and to carry out the aforesaid purposes, each agency
11 shall have the following powers:

12 § 14. Paragraph (b) of subdivision 5 of section 859-a of the general
13 municipal law, as added by chapter 563 of the laws of 2015, is amended
14 to read as follows:

15 (b) a written cost-benefit analysis by the agency that identifies the
16 extent to which a project will create or retain permanent, private
17 sector jobs; the estimated value of any tax exemptions to be provided;
18 the amount of private sector investment generated or likely to be gener-
19 ated by the proposed project; the contribution of the project to the
20 state's renewable energy goals and emission reduction targets as set
21 forth in the state energy plan adopted pursuant to section 6-104 of the
22 energy law; the likelihood of accomplishing the proposed project in a
23 timely fashion; and the extent to which the proposed project will
24 provide additional sources of revenue for municipalities and school
25 districts; and any other public benefits that might occur as a result of
26 the project;

27 § 15. Section 859-a of the general municipal law is amended by adding
28 a new subdivision 7 to read as follows:

29 7. Each agency shall consult with and seek advice and assistance from
30 the New York state energy research and development authority, as defined
31 in section eighteen hundred fifty-one of the public authorities law, in
32 calculating payments in lieu of taxes for renewable energy projects.

33 § 16. Subdivision 2 of section 1852 of the public authorities law, as
34 amended by chapter 156 of the laws of 2014, is amended to read as
35 follows:

36 2. The membership of the authority shall consist of [~~thirteen~~] fifteen
37 members, to be as follows: the commissioner of the department of trans-
38 portation, the commissioner of the department of environmental conserva-
39 tion, the chair of the public service commission, the president and
40 chief executive officer of the power authority of the State of New York,
41 and the chair of the New York state urban development corporation, all
42 of whom shall serve ex-officio; and [~~nine~~] ten members appointed by the
43 governor by and with the advice and consent of the senate; one of whom
44 shall be an engineer or a research scientist with a degree in the phys-
45 ical sciences or engineering who has not been employed in the nuclear
46 fission field for three years preceding the appointment and who shall
47 not be so employed during his or her term; one of whom shall have
48 significant expertise in the siting of renewable energy facilities who
49 has not been employed by a renewable energy generator for three years
50 preceding the appointment and whom shall not be so employed during his
51 or her term; one of whom shall be an economist who shall not have
52 received more than one-tenth of his or her income from an electric util-
53 ity or gas utility for three years preceding the appointment and who
54 shall not so derive more than one-tenth of his or her income during such
55 term; one of whom who shall be a member of a not-for-profit environ-
56 mental group; one of whom shall be a member of a not-for-profit consumer

1 group; one of whom shall be an officer of a utility primarily
2 engaged in the distribution of gas; and one of whom shall be an officer
3 of an electric utility. The governor shall designate the chair. Of the
4 nine members appointed by the governor, two shall be appointed for terms
5 expiring April first, nineteen hundred seventy-eight, two for terms
6 expiring April first, nineteen hundred eighty, two for terms expiring
7 April first, nineteen hundred eighty-one, and three for terms expiring
8 April first, nineteen hundred eighty-two. Persons appointed by the
9 governor for full terms as successors to such members shall serve for
10 terms of six years each commencing as of April first. In the event of a
11 vacancy occurring in the office of a member by death, resignation or
12 otherwise, the governor shall appoint a successor, by and with the
13 advice and consent of the senate, to serve the balance of the unexpired
14 term.

15 § 17. The opening paragraph of section 1854 of the public authorities
16 law, as amended by chapter 558 of the laws of 1980, is amended to read
17 as follows:

18 The purposes of the authority shall be to work in collaboration with
19 the department of economic development, the New York state urban devel-
20 opment corporation and any of their affiliates, to develop, invest in
21 and implement new energy technologies and projects consistent with
22 economic development and investment, social and environmental objec-
23 tives, to develop and encourage energy conservation technologies and
24 projects, to promote, develop, invest in, encourage and assist in the
25 acquiring, constructing, improving, maintaining, equipping and furnish-
26 ing of industrial, manufacturing, warehousing, commercial, research and
27 industrial pollution control facilities at the Saratoga Research and
28 Development Center, and to promote, develop, encourage and assist
29 special energy projects and thereby advance job opportunities, health,
30 general prosperity and economic welfare of the people of the state of
31 New York. In carrying out such purposes, the authority shall, with
32 respect to the activities specified, have the following powers:

33 § 18. Article 8 of the public authorities law is amended by adding a
34 new title 9-B to read as follows:

35 Title 9-B

36 CLEAN ENERGY RESOURCES DEVELOPMENT AND INCENTIVES PROGRAM

37 Section 1900. Statement of legislative intent.

38 1901. Definitions.

39 1902. Powers and duties.

40 1903. Eligibility.

41 1904. Funding.

42 § 1900. Statement of legislative intent. It is the intent of the
43 legislature in enacting this title to empower the New York state energy
44 research and development authority to establish effective programs and
45 other mechanisms to: (1) foster and encourage the orderly and expedient
46 siting and development of major renewable energy facilities consistent
47 with applicable law for the purpose of enabling the state to meet emis-
48 sions, renewable energy and other targets in the New York state climate
49 leadership and community protection act; (2) incentivize the re-use of
50 previously developed sites to protect the value of taxable land, capi-
51 talize on existing infrastructure; and (3) support the provision of
52 reasonable benefits to communities that host major renewable energy
53 facilities.

54 § 1901. Definitions. As used in this title, the following terms shall
55 have the following meanings:

1 1. "Act" means the accelerated renewable energy growth and community
2 benefit act.

3 2. "Authority" shall have the same meaning as in subdivision two of
4 section eighteen hundred fifty-one of this article.

5 3. "Commission" shall mean the public service commission.

6 4. "Departments" shall mean the department of environmental conserva-
7 tion, the department of agriculture and markets, the department of
8 economic development and the department of public service.

9 5. "Host community" shall mean any municipality within which a major
10 renewable energy facility, or any portion thereof, has been proposed for
11 development.

12 6. "Major renewable energy facility" shall mean facilities as defined
13 in subdivision six of section four hundred fifty-three of the economic
14 development law and facilities intending or anticipating to be consid-
15 ered as major renewable energy facilities pursuant to subdivision five
16 of section four hundred fifty-seven of the economic development law.

17 7. "Municipality" shall mean a county, city, town or village or poli-
18 tical subdivision.

19 8. "Build-ready site" shall mean a site for which the authority has
20 secured permits, property interests, agreements and/or other authori-
21 zations which the authority determines are reasonably adequate under the
22 circumstances in order to offer such site for further development,
23 construction and operation in accordance with the other provisions of
24 this title.

25 § 1902. Powers and duties. The authority is hereby authorized and
26 directed to undertake such actions it deems necessary or convenient to
27 foster and encourage the siting and development of major renewable ener-
28 gy facilities at appropriate locations throughout the state in accord-
29 ance with this title, work in collaboration with the New York state
30 urban development corporation and any of their affiliates, including
31 without limitation:

32 1. (a) Locate, identify and assess sites within the state that appear
33 suitable for the development of major renewable energy facilities
34 including for the specific purpose of producing build-ready sites. Such
35 assessment may include but need not be limited to the following consid-
36 erations:

37 (i) natural conditions at the site that are favorable to renewable
38 energy generation;

39 (ii) current land uses at or near the site;

40 (iii) environmental conditions at or near the site;

41 (iv) the availability and characteristics of any transmission or
42 distribution facilities on or near the site that could be used to facil-
43 itate the delivery of energy from the site, including existing or poten-
44 tial constraints on such facilities;

45 (v) the potential for the development of energy storage facilities at
46 or near the site;

47 (vi) potential impacts of development on disadvantaged communities;
48 and

49 (vii) expressions of commercial interest in the site or general
50 location by developers of major renewable energy facilities.

51 (b) In making such assessment the authority is authorized to and to
52 give priority to existing or abandoned commercial uses, including with-
53 out limitation brownfields, landfills, former commercial or industrial
54 sites, and abandoned or otherwise underutilized sites;

55 2. Notwithstanding any provision of law to the contrary, negotiate and
56 enter into agreements with persons who own or control interests in

1 favorable sites for the purpose of securing the rights and interests
2 necessary to enable the authority to establish build-ready sites;

3 3. Establish procedures and protocols for the purpose of establishing
4 build-ready sites;

5 4. Undertake all work and secure such permits as the authority deems
6 necessary or convenient to facilitate the process of establishing build-
7 ready sites and for the transfer of the build-ready sites to developers
8 selected pursuant to the process authorized by this title or any other
9 process authorized by law;

10 5. Notwithstanding any other law to the contrary, including title
11 five-A of article nine of this chapter, establish a program, including
12 eligibility and other criteria, pursuant to which the authority would,
13 through a competitive process, transfer rights and other interests in
14 build-ready sites and development rights to developers for the purpose
15 of facilitating the development of major renewable energy facilities on
16 such build-ready sites. Such transactions may include the transfer of
17 rights, interests and obligations existing under agreements providing
18 for host community benefits negotiated by the authority pursuant to
19 programs established pursuant to subdivision six of this section on such
20 terms and conditions as the authority deems appropriate;

21 6. Establish one or more programs pursuant to which property owners
22 and communities would receive incentives to host major renewable energy
23 facilities developed for the purpose of advancing the state policies
24 embodied in this article. Such program may include without limitation,
25 and notwithstanding any other provision of law to the contrary,
26 provisions for the authority to negotiate and enter into agreements with
27 property owners and host communities providing for incentives, including
28 a payment in lieu of taxes, the transfer of the authority's interests in
29 such agreements to developers to whom build-ready sites are transferred,
30 and the provision of information and guidance to stakeholders concerning
31 incentives;

32 7. Procure the services of one or more service providers, including
33 without limitation environmental consultants, engineers and attorneys,
34 to support the authority's responsibilities under this section and
35 perform such other functions as the authority deems appropriate;

36 8. In consultation with the department of economic development, the
37 department of labor and other state agencies and authorities having
38 experience with job training programs, assess the need for and avail-
39 ability of workforce training in the local area of build-ready sites to
40 support renewable energy development with special attention to disadvan-
41 tagged communities and, subject to available funding, establish one or
42 more programs pursuant to which financial support can be made available
43 for the local workforce and under-employed populations in the area;

44 9. Manage, allocate and spend any monies made available to the author-
45 ity in furtherance of this title as the authority determines to be
46 appropriate for the proper administration of programs created pursuant
47 to this title;

48 10. Where the authority determines that it would be beneficial to the
49 policy embodied in this title, the authority may offer financing or
50 other incentives to eligible developers, including without limitation
51 measures and activities undertaken by the authority in conjunction with
52 its administration of the state's clean energy standard or similar
53 program as established in commission orders, including without limita-
54 tion orders issued in commission case number 15-E-0302;

55 11. Request and receive the assistance of, the departments or any
56 other state agency or authority, within their respective relevant

1 subject matter expertise, to support the administration of the program
2 created pursuant to this title; and

3 12. Exercise such other powers and take all other actions the authori-
4 ty deems necessary or convenient for the proper administration of the
5 program created pursuant to this title.

6 § 1903. Eligibility. The authority may establish and revise any eligi-
7 bility and evaluation criteria it deems appropriate for the proper
8 administration of the programs created pursuant to this title.

9 § 1904. Funding. 1. The authority may seek funding from any authorized
10 or other available source to administer this program.

11 2. Without limiting the foregoing, the authority may submit a petition
12 or other appropriate filing to the commission describing the activities
13 it has taken and plans to undertake in furtherance of the policy
14 embodied in this title. Such filing may include a request for funding to
15 allow such activities to proceed promptly and for a period of at least
16 five years from the date of the order responding to such petition. The
17 commission shall, in accordance with and as promptly as authorized by
18 existing law and regulation but in no event more than four months
19 following the submission of the petition, issue an order responding to
20 such petition subject to any necessary and reasonable limitations based
21 on the public service law.

22 § 19. State power grid study and program to achieve CLCPA targets. 1.
23 As used in this section:

24 (a) "CLCPA targets" means the public policies established in the
25 climate leadership and community protection act enacted in chapter 106
26 of the laws of 2019, including the requirements that a minimum of 70%
27 statewide electric generation be produced by renewable energy systems by
28 2030, by the year 2040 the statewide electrical demand system will
29 generate zero emissions, and the state's jurisdictional load serving
30 entities will procure at least 9 gigawatts of offshore wind electricity
31 generation by 2035, six gigawatts of photovoltaic solar generation by
32 2025, and support 3 gigawatts of statewide energy storage capacity by
33 2030, as such policies may from time to time be amended.

34 (b) "Commission" means the public service commission.

35 (c) "Department" means the department of public service.

36 (d) "Distribution upgrade" means a new distribution facility or an
37 improvement, enhancement, replacement, or other modification to the
38 electric power grid at the distribution level in a utility's service
39 territory that facilitates achievement of the CLCPA targets.

40 (e) "Local transmission upgrade" means a new transmission facility
41 that is identified within a utility's local transmission capital plan,
42 an upgrade to local transmission facility as defined in the tariff of
43 the state grid operator, or an improvement, enhancement, replacement, or
44 other modification to a transmission facility in a utility's service
45 territory that facilitates achievement of the CLCPA targets.

46 (f) "Major renewable energy facility" has the same meaning as in
47 subdivision 6 of section 453 of the economic development law.

48 (g) "Bulk transmission investment" means a new transmission facility
49 or an improvement, enhancement, replacement, or other modification to
50 the state's bulk electric transmission grid that facilitates achievement
51 of the CLCPA targets and includes without limitation alternating current
52 facilities and high voltage direct current facilities, including subma-
53 rine transmission facilities.

54 (h) "State grid operator" means the federally designated electric bulk
55 system operator for New York state.

1 (i) "Utility" means an electric transmission or delivery utility or
2 any other person owning or maintaining an electric transmission or
3 delivery system, over which the commission has jurisdiction.

4 2. The department, in consultation with the New York state energy
5 research and development authority, the power authority of the state of
6 New York, the Long Island power authority, the state grid operator, and
7 the utilities shall undertake a comprehensive study for the purpose of
8 identifying distribution upgrades, local transmission upgrades and bulk
9 transmission investments that are necessary or appropriate to facilitate
10 the timely achievement of the CLCPA targets (collectively, "power grid
11 study"). The power grid study shall address needed distribution upgrades
12 and local transmission upgrades for each utility service territory and
13 separately address needed bulk transmission system investments. In
14 performing the study, the department may consider such issues it deter-
15 mines to be appropriate including by way of example system reliability;
16 safety; cost-effectiveness of upgrades and investments in promoting
17 development of major renewable energy facilities and relieving or avoid-
18 ing constraints; and factors considered by the office of renewable ener-
19 gy siting in issuing and enforcing renewable energy siting permits
20 pursuant to article 23 of the economic development law. In carrying out
21 the study, the department is authorized to gather input from owners and
22 developers of competitive transmission projects, the state grid opera-
23 tor, and providers of transmission technology and smart grid solutions,
24 and to utilize information available to the department from other perti-
25 nent studies or research relating to modernization of the state's power
26 grid. To enable the state to meet the CLCPA targets in an orderly and
27 cost-effective manner, the department may issue findings and recommenda-
28 tions as part of the power grid study at reasonable intervals but shall
29 make an initial report of findings and recommendations within 270 days
30 of the effective date of this section.

31 3. The commission shall, within 30 days of the initial findings and
32 recommendations required by subdivision 2 of this section, or at such
33 earlier time as the commission determines to be appropriate, commence a
34 proceeding to establish a distribution and local transmission capital
35 plan for each utility in whose service territory the power grid study
36 identified distribution upgrades and local transmission upgrades that
37 the department determines are necessary or appropriate to achieve the
38 CLCPA targets (the "state distribution and local transmission upgrade
39 programs"). The state distribution and local transmission upgrade
40 programs shall establish a prioritized schedule upon which each such
41 upgrade shall be accomplished. Concurrently, the Long Island power
42 authority shall establish a capital program to address identified
43 distribution and local transmission upgrades in its service territory.

44 4. The commission shall, within thirty days of the initial findings
45 and recommendations required by subdivision 2 of this section, commence
46 a proceeding to establish a bulk transmission system investment program
47 that identifies bulk transmission investments that the commission deter-
48 mines are necessary or appropriate to achieve the CLCPA targets (the
49 "state bulk transmission investment plan"). The commission shall estab-
50 lish a prioritized schedule for implementation of the state bulk trans-
51 mission investment plan, and in particular shall identify projects which
52 shall be completed expeditiously to meet the CLCPA targets. The commis-
53 sion shall periodically review and update the state bulk transmission
54 investment plan, and its designation of projects in that plan which
55 shall be completed expeditiously. The state bulk transmission invest-
56 ment plan shall be submitted by the commission to the state grid opera-

1 tor for appropriate incorporation into the state grid operator's studies
2 and plans.

3 5. The legislature finds and determines that timely development of the
4 bulk transmission investments identified in the state bulk transmission
5 investment plan is in the public interest of the people of the state of
6 New York. The legislature further finds and determines that the power
7 authority of the state of New York owns and operates backbone electric
8 transmission assets in New York, has rights-of-way that can support in
9 whole or in part bulk transmission investment projects, and has the
10 financial stability, access to capital, technical expertise and experi-
11 ence to effectuate expeditious development of bulk transmission invest-
12 ments needed to help the state meet the CLCPA targets, and thus it is
13 appropriate for the power authority of the state of New York, subject to
14 the approval of its trustees, by itself or in collaboration with other
15 parties as it determines to be appropriate, to develop those bulk trans-
16 mission improvements found by the commission to be needed expeditiously
17 to achieve CLCPA targets.

18 6. For the state distribution and local transmission upgrade program,
19 the commission shall address implementation of such upgrades pursuant to
20 the existing processes under the public service law. The department
21 shall also make recommendations to the Long Island power authority for
22 upgrades for purposes of assisting the state to achieve the CLCPA
23 targets.

24 7. No later than January 1, 2023, and every 4 years thereafter, the
25 commission shall, after notice and provision for the opportunity to
26 comment, issue a comprehensive review of the actions taken pursuant to
27 this section and their impacts on grid congestion and achievement of the
28 CLCPA targets, and shall institute new proceedings as the commission
29 determines to be necessary to address any deficiencies identified there-
30 with.

31 8. The power authority of the state of New York and the New York state
32 energy research and development authority, are each authorized, as
33 deemed feasible and advisable by their respective boards, to contribute
34 to the cost of the power grid study required by subdivision 2 of this
35 section.

36 9. The power authority of the state of New York is authorized and
37 directed to use existing rights-of-way when undertaking bulk trans-
38 mission investments identified in the state bulk transmission investment
39 plan.

40 10. Nothing in this section is intended to:

41 (a) limit, impair, or affect the legal authority of the power authori-
42 ty that existed as of the effective date of this section; or

43 (b) limit the authority of the power authority to undertake any trans-
44 mission project, including bulk transmission investments, and recover
45 costs under any other process or procedure authorized by state or feder-
46 al law as the authority determines to be appropriate.

47 § 20. Host community benefit. 1. Definitions. As used in this section,
48 the following terms shall have the following meanings:

49 (a) "Renewable host community" shall mean any municipality within
50 which a major renewable energy facility defined in article 23 of the
51 economic development law, or any portion thereof, has been proposed for
52 development.

53 (b) "Renewable owner" shall mean the owner of a major renewable energy
54 facility constructed after the effective date of this section that is
55 proposed to be located in a host community, for which the New York state
56 energy research and development authority has executed an agreement for

1 the acquisition of environmental attributes related to a solicitation
2 issued by such authority after the effective date of this section.

3 (c) "Utility" means an electric distribution utility regulated pursu-
4 ant to section 66 of the public service law and serving customers within
5 a host community.

6 2. The public service commission shall, within 60 days from the effec-
7 tive date hereof, commence a proceeding to establish a program under
8 which renewable owners would fund a program to provide a discount or
9 credit on the utility bills of the utility's customers in a renewable
10 host community, or a compensatory or environmental benefit to such
11 customers. Such proceeding shall determine the amount of such discount,
12 credit, compensatory or environmental benefit based on all factors
13 deemed appropriate by the commission, including the expected average
14 electrical output of the facility, the average number of customers with-
15 in the renewable host community, and the expected aggregate annual elec-
16 tric consumption within such renewable host community, the potential
17 impact on disadvantaged communities, and the role of utilities, if any,
18 in implementing any aspect of such program. The Long Island power
19 authority shall establish a program for renewable facilities in its
20 service territory to achieve the same objectives.

21 § 21. Subdivision 3 of section 123 of the public service law, as added
22 by chapter 252 of the laws of 2002, is amended to read as follows:

23 3. Unless otherwise stipulated by the applicant[~~, a final determi-~~
24 ~~nation regarding an application for a certificate to construct trans-~~
25 ~~mission facilities for interconnection with a wind energy production~~
26 ~~facility located in the county of Lewis shall be rendered within six~~
27 ~~months from the date of receipt of a compliant application.]:~~

28 (a) proceedings on an application for a major utility transmission
29 facility as defined in paragraph a of subdivision two of section one
30 hundred twenty of this article shall be completed in all respects,
31 including a final decision by the commission, within twelve months from
32 the date of a determination by the secretary of the commission that an
33 application complies with section one hundred twenty-two of this arti-
34 cle; provided, however, the commission may extend the deadline in
35 reasonable circumstances by no more than six months in order to give
36 consideration to specific issues necessary to develop an adequate
37 record, because the applicant has been unable to obtain necessary
38 approvals and/or consents related to highway crossings or for other
39 reasons deemed in the public interest. The commission shall render a
40 final decision on the application by the aforementioned deadlines unless
41 such deadlines are waived by the applicant or if the applicant notices
42 the application for settlement, in which case the timeframes established
43 in this paragraph are tolled until such time that settlement discussions
44 are suspended. If, at any time subsequent to the commencement of the
45 hearing, there is a substantive and significant amendment to the appli-
46 cation, the deadlines may be extended by no more than six months, unless
47 such deadline is waived by the applicant, to consider such amendment.

48 (b) the commission shall promulgate rules or regulations to establish
49 an expedited process for proceedings on applications for a major utility
50 transmission facility as defined in paragraph a of subdivision two of
51 section one hundred twenty of this article that (i) would be constructed
52 within existing rights of way, (ii) the commission determines would not
53 result in any significant adverse environmental impacts considering
54 current uses and conditions existing at the site, or (iii) would neces-
55 sitate expanding the existing rights-of-way but such expansion is only

1 for the purpose of complying with law, regulations, or industry prac-
2 tices relating to electromagnetic fields.

3 (c) for purposes of this subdivision, the following terms shall have
4 the following meanings:

5 (i) "Expedited process" shall mean a process for proceedings on appli-
6 cations for a major electric transmission facility that is completed in
7 all respects, including a final decision by the commission, within nine
8 months from the date of a determination by the secretary of the commis-
9 sion that an application complies with section one hundred twenty-two of
10 this article; provided, however, that if the applicant notices the
11 application for settlement, the timeframe established in this paragraph
12 shall be tolled until such time that settlement discussions are
13 suspended.

14 (ii) "Right-of-way" shall mean (a) real property that is used or
15 authorized to be used for electric utility purposes, or (b) real proper-
16 ty owned or controlled by or under the jurisdiction of the state, a
17 distribution utility, or a state public authority including by means of
18 ownership, lease or easement, that is used or authorized to be used for
19 transportation or canal purposes.

20 § 22. Paragraphs (c) and (d) of subdivision 1 of section 126 of the
21 public service law, paragraph (c) as amended by chapter 406 of the laws
22 of 1987 and paragraph (d) as amended by chapter 521 of the laws of 2015,
23 are amended, paragraph (h) of subdivision 1 is relettered paragraph (i)
24 and a new paragraph (h) is added to read as follows:

25 (c) that the facility [~~represents the minimum~~] minimizes to the extent
26 practicable any significant adverse environmental impact, considering
27 the state of available technology and the nature and economics of the
28 various alternatives, and other pertinent considerations including but
29 not limited to, the effect on agricultural lands, wetlands, parklands
30 and river corridors traversed;

31 (d) that the facility [~~represents a minimum~~] minimizes to the extent
32 practicable any significant adverse impact on active farming operations
33 that produce crops, livestock and livestock products, as defined in
34 section three hundred one of the agriculture and markets law, consider-
35 ing the state of available technology and the nature and economics of
36 various alternatives, and the ownership and easement rights of the
37 impacted property;

38 (h) with respect to any bulk transmission investment identified in the
39 state bulk transmission investment plan developed under the act that
40 added this subdivision for which the commission has found that expe-
41 ditious construction is necessary to meet the climate leadership and
42 community protection act targets and for which the power authority of
43 the state of New York alone or in collaboration with other parties is
44 the applicant;

45 § 23. Notwithstanding any other law to the contrary, including
46 sections 2879-a and 2897 of the public authorities law, the power
47 authority of the state of New York, the Long Island power authority and
48 the New York state energy research and development authority may each
49 negotiate and enter into agreements with other parties providing for the
50 conveyance of interests in real property provided that in the case of
51 any such conveyance such entity determines that the conveyance will
52 further the purposes of this act or provide other benefits to the entity
53 or the state.

54 § 24. The environmental conservation law is amended by adding a new
55 section 11-0535-c to read as follows:

56 § 11-0535-c. Endangered and threatened species mitigation bank fund.

1 1. The department is hereby authorized to utilize funds in the endan-
2 gered and threatened species mitigation bank fund, established pursuant
3 to section ninety-nine-hh of the state finance law, for the purposes of
4 facilitating the achievement of a net conservation benefit to endangered
5 or threatened species which may be impacted by the construction or oper-
6 ation of a major renewable energy facility or other jurisdictional
7 activities reviewed by the department pursuant to this title.

8 2. Such fund shall consist of contributions, in an amount determined
9 by the department, deposited by an applicant granted a permit pursuant
10 to this title or otherwise given approval for projects which may have an
11 impact on endangered or threatened species, including a siting permit to
12 construct a major renewable energy facility, where such applicant has
13 been ordered to mitigate harm to a threatened or endangered species or
14 its habitat.

15 3. In administering the provisions of this article, the commissioner:

16 a. May, in the name of the state, enter into contracts with not-for-
17 profit corporations, private or public universities, and private
18 contractors for services contemplated by this title. Such contracts
19 shall be subject to approval by the state comptroller and, as to form,
20 by the attorney general.

21 b. Shall approve vouchers for payments pursuant to an approved
22 contract. All such payments shall be paid on the audit and warrant of
23 the state comptroller;

24 c. May, in the name of the state, enter into contracts with a not-for-
25 profit corporation to administer grants made pursuant to this title,
26 including the approval and payment of vouchers for approved contracts;
27 and

28 d. May perform such other and further acts as may be necessary, prop-
29 er, or desirable to carry out the provisions of this article.

30 4. Nothing in this article shall be construed to limit or restrict any
31 powers of the commissioner or any other agency pursuant to any other
32 provision of law.

33 5. The commissioner is authorized and directed to promulgate any regu-
34 lations deemed necessary to implement this section.

35 § 25. The state finance law is amended by adding a new section 99-hh
36 to read as follows:

37 § 99-hh. Endangered and threatened species mitigation bank fund. 1.
38 There is hereby established in the joint custody of the comptroller and
39 the commissioner of taxation and finance a special fund to be known as
40 the "Endangered and threatened species mitigation bank fund".

41 2. Such fund shall consist of all revenues received pursuant to the
42 provisions of section 11-0535-c of the environmental conservation law
43 and all other moneys appropriated, credited, or transferred thereto from
44 any other fund or source pursuant to law.

45 3. All moneys deposited in the endangered and threatened species miti-
46 gation bank fund shall be available for projects undertaken to facili-
47 tate a net conservation benefit to endangered and threatened species
48 potentially impacted by approvals provided by the department for activ-
49 ities, such as construction of a major renewable energy facility or by
50 any other proposed activities as determined by the department pursuant
51 to subdivision one of section 11-0535-c of the environmental conserva-
52 tion law.

53 4. Monies shall be payable from the fund on the audit and warrant of
54 the comptroller on vouchers approved and certified by the commissioner
55 of environmental conservation.

1 § 26. Severability. If any clause, sentence, paragraph, section or
2 part of this act shall be adjudged by any court of competent jurisdic-
3 tion to be invalid, such judgment shall not affect, impair or invalidate
4 the remainder thereof, but shall be confined in its operation to the
5 clause, sentence, paragraph, section or part thereof directly involved
6 in the controversy in which such judgment shall have been rendered.

7 § 27. This act shall take effect immediately.

8 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-
9 sion, section or part of this act shall be adjudged by any court of
10 competent jurisdiction to be invalid, such judgment shall not affect,
11 impair, or invalidate the remainder thereof, but shall be confined in
12 its operation to the clause, sentence, paragraph, subdivision, section
13 or part thereof directly involved in the controversy in which such judg-
14 ment shall have been rendered. It is hereby declared to be the intent of
15 the legislature that this act would have been enacted even if such
16 invalid provisions had not been included herein.

17 § 3. This act shall take effect immediately provided, however, that
18 the applicable effective date of Parts A through JJJ of this act shall
19 be as specifically set forth in the last section of such Parts.