STATE OF NEW YORK

S. 7508 A. 9508

SENATE - ASSEMBLY

January 22, 2020

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

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

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

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

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repeal certain provisions of the public authorities law relating thereto (Part J); to amend chapter 54 of the laws of 2016 amending the general municipal law relating to the New York transit authority and the metropolitan transportation authority, in relation to extending authorization for tax increment financing for the metropolitan transportation authority (Part K); to amend the public authorities law, in relation to providing the metropolitan transit authority the right to enter private property to trim trees and vegetation for safety purposes (Part L); to amend the penal law, in relation to including the intentional use of any toll highway, parkway, road, bridge or tunnel or entry into or remaining in a tolled central business district without payment of the lawful toll or charge as a theft of services; and to amend the vehicle and traffic law, in relation to the penalty imposed upon the operator of a vehicle with an altered or obscured license plate while on a toll highway, bridge or tunnel (Part M); to amend the penal law, in relation to assaulting certain employees of a transit agency or authority (Part N); to amend the penal law, in relation to harassing certain employees of a transit agency or authority (Part O); to amend the penal law and the public authorities law, in relation to transit crimes and prohibition orders relating to such crimes (Part P); to amend the business corporation law, the cooperative corporations law, the executive law, the general associations law, the general business law, the limited liability company law, the not-for-profit corporation law, the partnership law, the private housing finance law, the arts and cultural affairs law, the real property law and the tax law, in relation to streamlining the process by which service of process is served against a corporate or other entity with the secretary of state; and to repeal certain provisions of the real property law relating thereto (Part Q); to amend chapter 21 of the laws of 2003, amending the executive law relating to permitting the secretary of state to provide special handling for all documents filed or issued by the division of corporations and to permit additional levels of such expedited service, in relation to extending the effectiveness thereof (Part R); to amend the general business law, in relation to prohibiting gender discrimination within the pricing of consumer goods and services (Part S); to amend the general business law, in relation to telemarketing and to provide for caller identification transparency, call authentication, and call blocking services; and to repeal certain provisions of such law relating thereto (Part T); to amend the state law, in relation to making changes to the arms of the state (Part U); to amend the executive law, the real property law and the general business law, in relation to qualifications for appointment and employment (Part V); to amend the real property law, in relation to home inspection professional licensing (Part W); to amend the business corporation law, the executive law, the limited liability company law, the not-for-profit corporation law, and the partnership law, in relation to filing of certificates with the department of state; and repealing provisions of the business corporation law, the limited liability company law and the tax law related thereto (Part X); to authorize utility and cable television assessments that provide funds to the department of health from cable television assessment revenues and to the department of agriculture and markets, department of environmental conservation, department of state, and the office of parks, recreation and historic preservation from utility assessment revenues (Part Y); to amend the public service law, in relation to strengthening the oversight and enforcement mech-

anisms of the public service commission (Part Z); to amend the public service law, the state finance law, the public authorities law and the general business law, in relation to prohibiting internet service providers from preventing access to certain internet content or applications or requiring users to pay to access certain internet content or applications (Part AA); to amend the general municipal law, in relation to authorizing municipal corporations to charge for use and occupancy of fiber-optic lines on municipally owned rights of way and establish a uniform process for the siting of small cell wireless facilities; and to amend the highway law, in relation to statewide master license agreements (Part BB); to amend chapter 584 of the laws of 2011, amending the public authorities law relating to the powers and duties of the dormitory authority of the state of New York relative to the establishment of subsidiaries for certain purposes, in relation to the effectiveness thereof (Part CC); to amend the infrastructure investment act, in relation to requiring certain contracts to comply with service-disabled veteran-owned business enterprises, negotiating prices in certain lump-sum contracts, referencing certain sections of law and providing for a date of repeal (Part DD); to amend the New York state urban development corporation act, in relation to extending the authority of the New York state urban development corporation to administer the empire state economic development fund (Part EE); to amend chapter 393 of the laws of 1994 amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, in relation to extending the general loan powers of the New York state urban development corporation (Part FF); to amend the economic development law, in relation to economic transformation program eligibility (Part GG); to authorize the New York state energy research and development authority to finance a portion of its research, development and demonstration, policy and planning, and Fuel NY program, as well as climate change related expenses of the department of environmental conservation and the department of agriculture and markets' Fuel NY program, from an assessment on gas and electric corporations (Part HH); to amend the labor law, in relation to the definitions of employer and immediate family member (Part II); to amend the general municipal law, in relation to discretionary spending and procurement procedures for school districts in relation to New York state products (Part JJ); to amend the public authorities law, in relation to the water pollution control revolving fund and the drinking water revolving fund (Part KK); to amend the banking law and the civil practice law and rules, in relation to licensing consumer debt collectors (Part LL); to amend the financial services law, in relation to licensing student debt relief consultants; and to amend the banking law, in relation to requiring fingerprinting for applications for a student loan servicer license (Part MM); to amend the financial services law and the insurance law, in relation to protecting New York consumers from unfair and abusive practices (Part NN); to amend the banking law, in relation to fighting elder financial fraud (Part OO); to amend the environmental conservation law, in relation to expanded polystyrene foam container and polystyrene loose fill packaging ban (Part PP); authorizing the creation of state debt in the amount of three billion dollars, in relation to creating the environmental bond act of 2020 "restore mother nature" for the purposes of environmental improvements that preserve, enhance, and restore New York's natural resources and reduce the impact of climate change by restoring habitats and reducing

flood risk; improving water quality; protecting open space and investing in recreational infrastructure; expanding the use of renewable energy to mitigate climate change; and providing for the submission to the people of a proposition or question therefor to be voted upon at the general election to be held in November, 2020 (Part QQ); to amend the environmental conservation law and the state finance law, in relation to the implementation of the environmental bond act of 2020 "restore mother nature" (Part RR); to amend the environmental conservation law, in relation to a product stewardship program; and to amend the state finance law, in relation to establishing the stewardship organization fund (Part SS); to amend the environmental conservation law, in relation to freshwater wetlands; and to repeal certain provisions of such law relating thereto (Part TT); to authorize the county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart A); to authorize the village of East Rockaway, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart B); and to authorize the village of Rockville Centre, county of Nassau, to permanently and temporarily convey certain easements and to temporarily alienate certain parklands (Subpart C) (Part UU); to amend the environmental conservation law, in relation to financial security for the plugging and site reclamation of regulated wells (Part VV); to amend the environmental conservation law, in relation to banning fracking (Part WW); to amend the vehicle and traffic law, in relation to bicycles with electric assist (Part XX); to amend chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, in relation to the effectiveness thereof; and to amend chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, in relation to the effectiveness thereof (Part YY); to amend chapter 751 of the laws of 2005, amending the insurance law and the vehicle and traffic law relating to establishing the accident prevention course internet technology pilot program, in relation to extending the effectiveness thereof (Part ZZ); to amend the vehicle and traffic law, in relation to the regulation of the use of electric scooters (Part AAA); to amend the public authorities law, in relation to the centers for advanced technology program; and to repeal section 410 of the economic development law relating to the centers for excellence program (Part BBB); to amend the insurance law, the public authorities law and the tax law, in relation to authorizing the power authority of the state of New York to form a pure captive insurance company (Part CCC); to amend the Hudson river park act, in relation to Pier 76 (Part DDD); to amend the New York Buy American Act, in relation to the report to be provided and to making such provisions permanent (Part EEE); to amend the labor law, in relation to prevailing wage requirements (Part FFF); and to amend the labor law, in relation to classification of digital marketplace workers; and to establish the New York digital marketplace worker classification task force (Part GGG)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2020-2021

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

PART A

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

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

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

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

§ 3. This act shall take effect immediately.

PART B

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

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

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

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

sion, 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 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.

§ 3. This act shall take effect immediately.

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

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

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

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

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

PART D

Section 1. This act enacts into law components of legislation which are necessary to implement legislation relating to enacting the slow down and look out for highway workers and pedestrians act of 2020. 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. Subdivisions 3 and 11 of section 120.05 of the penal law, subdivision 3 as amended by chapter 267 of the laws of 2016, and subdivision 11 as separately amended by chapters 268 and 281 of the laws of 2016, are amended to read as follows:

3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, a highway worker as defined in section one hundred eighteen-a of the vehicle and traffic law, a motor vehicle inspector and motor carrier investigator as defined in section one hundred eighteen-b of the vehicle and traffic law, or employee of any entity governed by the public service law in the course of performing an essential service, from performing a lawful duty, by means including releasing or failing to control an animal under circum-

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

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

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

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

§ 120.19 Menacing a highway worker.

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

Menacing a highway worker is a class E felony.

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

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

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

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

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

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

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

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

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

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

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

SUBPART B

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

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

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

2. The commissioner [~~of transportation~~]**, a police officer, or any person acting at the discretion of the commissioner or a police officer** shall have the power to cause the immediate removal, from the right of way of any state highway, of any vehicle**, cargo, or debris** which obstructs or interferes with the use of such a highway for public travel; or which obstructs or interferes with the construction, reconstruction or maintenance of such a highway; or which obstructs or interferes with the clearing or removal of snow or ice from such a highway; 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:

(v) Within a distance of approximately one mile from the New York state thruway interchange 24 traveling along interstate route 90 to interchange 2 Washington avenue, and to Washington avenue traveling westbound to Fuller road in a northerly direction to interstate route 90 traveling to interchange 24 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.

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

miles to the New York state thruway interchange 25A tandem lot access road, 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.

(x) Within a distance of approximately 2.2 miles from the New York state thruway interchange 34A traveling in a southbound direction along interstate route 481 to interstate 481 exit 5E Kirkville road east along state route 53 Kirkville road in an eastbound direction to interstate route 481 traveling northbound to exit 6 to interchange 34A 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.

(y) Within a distance of approximately .8 miles from the New York state thruway interchange 35, traveling approximately 200 feet around Carrier circle to traveling northbound on Thompson road for approximately 1000 feet, or traveling southbound on Thompson road approximately 100 feet, to traveling westbound on Tarbell road for approximately .5 miles to reenter at the Dewitt service area 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.

(z) Within a distance of approximately one mile from the New York state thruway interchange 36 traveling in a southbound direction on interstate 81 to interstate 81 exit 25 7th North street, and traveling eastbound on 7th North street to interstate 81 traveling in a northbound direction to interchange 36 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.

(aa) Within a distance of approximately .6 miles from the New York state thruway interchange 39 traveling eastbound on interstate 690 to interstate 690 exit 2 Jones road in a northbound direction to state route 690 north to interchange 39 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.

(bb) Within a distance of approximately .5 miles from the New York state thruway interchange 45, traveling on interstate 490 to interstate 490 exit 29, in a southwesterly direction along New York state route 96 to the point where New York state route 96 intersects with the entrance ramp to the New York state thruway interchange 45, and for approximately .2 miles along this entrance ramp to the New York state thruway interchange 45, 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.

(cc) Within a distance of approximately .6 miles from the New York state thruway interchange 46, traveling in a northeasterly direction on the ramp from the New York state thruway interchange 46 to interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .5 miles along the ramp from interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .6 miles in a westerly direction along New York state route 253, Lehigh Station road, to the intersection of New York state route 253 with New York state route 15, then for a distance of approximately .6 miles in a southerly direction along New York state route 15, to the New York state thruway interchange 46 maintenance facility entrance, 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.

(dd) Within a distance of approximately .3 miles from the New York state thruway interchange 47, traveling on interstate 490 to interstate 490 exit 1, to a distance of approximately .2 miles along the ramp from interstate 490 exit 1, for a distance of approximately .4 miles in a southwesterly direction to the entrance ramp of the New York state thruway interchange 47, 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.

(ee) Within a distance of approximately .6 miles from the New York state thruway interchange 19, traveling in a westbound direction along route 28 to route 209, and traveling in a southbound direction on route 209 for approximately .1 miles to route 28, and traveling in an eastbound direction on route 28 for approximately .8 miles to the New York state thruway interchange 19 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.

(ff) Within a distance of approximately .5 miles from the New York state thruway interchange 31, traveling onto the ramp to Genesee street south for approximately 2800 feet to Genesee street north for approximately 275 feet to interchange 31 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.

(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 such shall not require the explanatory statements required by this section.

§ 2. This act shall take effect immediately.

PART G

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Upon abolishment of the New York state bridge authority, all books, papers, records and property of such authority shall be transferred as assigned to the New York state thruway authority. All employees transferred from the New York state bridge authority to the New York state thruway authority shall be transferred without further examination or qualification and such employees shall retain their respective civil service classifications, status and collective bargaining unit designations and be governed by applicable collective bargaining agreements.

6. Upon abolishment of the New York state bridge authority, any business or other matters undertaken or commenced by the New York state bridge authority and pending on the date of abolishment may be conducted and completed by the New York state thruway authority in the same manner and under the same terms and conditions and with the same effect as if conducted by the New York state bridge authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

PART H

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

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

(a) Any person who operates, or attempts to operate, a motor vehicle in violation of the provisions of this section shall be guilty of a traffic infraction and, for the first violation, be required to pay a mandatory civil penalty of three thousand dollars and, upon notice, the commissioner shall suspend for a period of thirty days the driver's license or privilege to operate a motor vehicle of any person that operated, or attempted to operate, a motor vehicle in violation of this section; and for the second violation, be required to pay a mandatory civil penalty of five thousand dollars and, upon notice, the commissioner shall suspend for a period of ninety days such driver's license or privilege to operate; and for a third or subsequent violation, be required to pay a mandatory civil penalty of ten thousand dollars and, upon notice, the commissioner shall suspend for a period of one hundred eighty days such driver's license or privilege to operate. In addition to the foregoing, where such person is the owner of the motor vehicle operated in violation of the provisions of this section, for the first violation the commissioner, upon notice, shall suspend for a period of thirty days the registration of any motor vehicle so operated; and for the second violation the commissioner, upon notice, shall suspend the registration of any motor vehicle so operated for a period of ninety days; and for a third or subsequent violation, the commissioner, upon notice, shall suspend the registration of any motor vehicle so operated for a period of one hundred eighty days.

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

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

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

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

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

8. (a) A police officer shall be permitted to seize a motor vehicle that may be subject to legal forfeiture pursuant to subdivision seven of this section if the officer has probable cause to believe the owner of the motor vehicle is operating, or attempting to operate, the motor vehicle in violation of this section and the owner has previously been convicted in any court or administrative tribunal of a violation of this section. A police officer effectuating a seizure pursuant to this subdivision may do so within twenty-four hours of providing the owner of the motor vehicle with a traffic summons for the second or subsequent violation of this section and a notice of motor vehicle seizure containing the date, time, and place of the court hearing pursuant to this subdivision, as well as a concise statement concerning the nature of the legal forfeiture action. Within five business days of such seizure, a supreme or county court, upon the filing of a petition for legal forfeiture, shall conduct a hearing pursuant to subdivision seven of this section and shall promptly determine whether a motor vehicle seized pursuant to this subdivision is subject to legal forfeiture and whether it is necessary that the motor vehicle remain impounded in order to ensure its availability to effectuate legal forfeiture.

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

§ 2. Paragraph b of subdivision 2 of section 510 of the vehicle and traffic law is amended by adding two new subparagraphs (xviii) and (xix) 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. This act shall take effect immediately.

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

§ 2. This act shall take effect immediately.

PART J

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

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

(a) Except as otherwise provided in this section, all purchase contracts for supplies, materials or equipment involving an estimated expenditure in excess of one million dollars and all contracts for public work involving an estimated expenditure in excess of one million dollars shall be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in the manner hereinafter set forth. The aforesaid shall not apply to contracts for personal, architectural, engineering or other professional services**, nor to contracts for projects using the design build contracting method which may in the authority's discretion be solicited and awarded pursuant to a process for competitive request for proposals**. The authority may reject all bids and obtain new bids in the manner provided by this section when it is deemed in the public interest to do so or, in cases where two or more responsible bidders submit identical bids which are the lowest bids, award the contract to any of such bidders or obtain new bids from such bidders. **In the event that the authority receives no responsive bids or only a single bid in response to an invitation for bids, it may negotiate with any firm capable of providing the goods or work that was the subject of the bid. In the event that, after opening bids, it is determined to be in the best interest of the authority to make a change to the specifications or other terms or requirements of the bid, new bids may be solicited from those firms that submitted bids without additional public advertisements. In the event that a low bid contains a non-conformity or is otherwise non-compliant with the solicitation, the authority may permit such bid to be corrected without increase to the low bid price or may reject such bid.** Nothing in this paragraph shall obligate the authority to seek new bids after the rejection of bids or after cancellation of an invitation to bid. Nothing in this section shall prohibit the evaluation of bids on the basis of costs or savings including life cycle costs of the item to be purchased, discounts, and inspection services so long as the invitation to bid reasonably sets forth the criteria to be used in evaluating such costs or savings. Life cycle costs may include but shall not be limited to costs or savings associated with installation, energy use, maintenance, operation and salvage or disposal.

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

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

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

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

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

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

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

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

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

10. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which

such lists are compiled. The authority shall review such list no less than [~~twice~~] **once** a year for the purpose of making modifications thereto. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

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

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

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

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

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

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

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

(a) Advertisement for bids, when required by this section, shall be published [~~at least once in a newspaper of general circulation in the area served by the authority and in the procurement opportunities newsletter published pursuant to article four-C of the economic development law provided that,~~] on the authority's website notwithstanding the provisions of article four-C of the economic development law[~~, an advertisement shall only be required for a purchase contract for supplies, materials or equipment when required by this section. Publication in a newspaper of general circulation in the area served or in the procurement opportunities newsletter shall not be required if bids for contracts for supplies, materials or equipment are of a type regularly purchased by the authority and are to be solicited from a list of potential suppliers, if such list is or has been developed consistent with the provisions of subdivision six of this section~~]. Any such advertisement shall contain a statement of: (i) the time and place where bids received pursuant to any notice requesting sealed bids will be publicly opened and read; (ii) the name of the contracting agency; (iii) the contract identification number; (iv) a brief description of the public work, supplies, materials, or equipment sought, the location where work is to be performed, goods are to be delivered or services provided and the contract term; (v) the address where bids or proposals are to be submitted; (vi) the date when bids or proposals are due; (vii) a description of any eligibility or qualification requirement or preference; (viii) a statement as to whether the contract requirements may be fulfilled by a subcontracting, joint venture, or co-production arrangement; (ix) any other information deemed useful to potential contractors; and (x) the name, address, and telephone number of the person to be contacted for additional information. At least [~~fifteen business~~] five days shall elapse between the first publication of such advertisement or the solicitation of bids, as the case may be, and the date of opening and reading of bids.

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

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

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

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

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

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

5. Upon the adoption of a resolution by the authority stating, for reasons of efficiency, economy, compatibility or maintenance reliability, that there is a need for standardization, the authority may establish procedures whereby particular supplies, materials or equipment are identified on a qualified products list. Such procedures shall provide for products or vendors to be added to or deleted from such list and shall include provisions for public advertisement of the manner in which such lists are compiled. The authority shall review such list no less than [~~twice~~] **once** a year for the purpose of making such modifications. Contracts for particular supplies, materials or equipment identified on a qualified products list may be awarded by the authority to the lowest responsible bidder after obtaining sealed bids in accordance with this section or without competitive sealed bids in instances when the item is available from only a single source, except that the authority may dispense with advertising provided that it mails copies of the invitation to bid to all vendors of the particular item on the qualified products list.

§ 12. Section 15 of part OO of chapter 54 of the laws of 2016, amending the public authorities law relating to procurements by the New York City transit authority and the metropolitan transportation authority, is amended to read as follows:

§ 15. This act shall take effect immediately[~~, and shall expire and be 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 contrac-

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

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

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

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

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

§ 2. This act shall take effect immediately.

PART M

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

3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service or to use any toll highway, parkway, road, bridge or tunnel or to enter or remain in the tolled central business district described in section seventeen hundred four of the vehicle and traffic law without payment of the lawful charge or toll therefor, or to avoid payment of the lawful charge or toll for such transportation service which has been rendered to him or her or for such use of any toll highway, parkway, road, bridge or tunnel or for such entering or remaining in such tolled central business district, he or she obtains or attempts to obtain such service or to use any toll highway, parkway, road, bridge or tunnel or to enter or remain in a tolled central business district or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or

§ 2. Paragraph (b) of subdivision 1 of section 402 of the vehicle and traffic law, as amended by chapter 109 of the laws of 2005, is amended and a new paragraph (c) is added to read as follows:

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

(c) It shall be unlawful for any person to operate, drive or park a motor vehicle on a toll highway, bridge and/or tunnel facility or enter or remain in the tolled central business district described in section seventeen hundred four of this chapter, under the jurisdiction of the tolling authority, if such number plate is not easily readable, nor shall any number plate be covered by glass or any plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates, or that distorts a recorded or photographic image of such number plates, and the view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling authority in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling authority. For purposes of this paragraph, "tolling authority" shall mean every public authority which operates a toll highway, bridge and/or tunnel or a central business district tolling program as well as the Port Authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, as amended.

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

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

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

PART N

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

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

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 medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, [~~including the~~] cleaning of a train or bus station or terminal **or maintenance of a train or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, train yard or revenue train in passenger service**, or such city marshal, school crossing guard, 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 medical service technician is performing an assigned duty; or

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

PART O

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

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

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

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

PART P

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

TITLE Y-3
TRANSIT CRIMES

ARTICLE 498
TRANSIT CRIMES

Section 498.05 Order of protection of public transit riders.
498.10 Transit trespass.

§ 498.05 Order of protection of public transit riders.

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

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

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

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

§ 498.10 Transit trespass.

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

Transit trespass is a class A misdemeanor.

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

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

(a) the person: (i) has been issued a summons, an appearance ticket, or a notice of violation for committing a violation of any of the rules and regulations governing the conduct and safety of the public established by the New York city transit authority, the Manhattan and Bronx surface transit operating authority, the Staten Island rapid transit operating authority, MTA bus company, the Metro-North commuter railroad company, or the Long Island Rail Road company; and (ii) the violation was related to a sexual offense committed against any metropolitan transportation authority passenger, customer, or employee or an assault-related crime or offense against a metropolitan transportation authority employee; and (iii) the person was previously issued two or more summonses, appearance tickets, or notices of violation for committing a violation of any of the rules and regulations governing the conduct and safety of the public established by the New York city transit authority, the Manhattan and Bronx surface transit operating authority, the Staten Island rapid transit operating authority, the MTA bus company, the Metro-North commuter railroad company, or the Long Island Rail Road company for a violation related to a sexual offense committed against any metropolitan transportation authority passenger, customer, or employee or an assault-related crime or offense against a metropolitan transportation authority employee; or

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

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

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

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

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

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

(1) in-person delivery; or

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

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

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

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

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

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

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

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

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

(2) eleven calendar days following service of the results of the review if an initial review is timely requested and the proposed prohibition order is upheld on review; or

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

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

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

(b) The authority may in its discretion modify or cancel a prohibition order in the interest of justice at any time. If the person depends upon the authority's subways, trains, buses, or other conveyances or facilities for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes, or places of employment; obtaining food, clothing, and necessary household items; or rendering care to family members, the authority may modify a prohibition order to allow for a trip or trips as in its discretion are necessary. A person requesting that a prohibition order be cancelled or modified in the interest of justice shall have the burden of establishing the qualifying circumstances by a preponderance of the evidence.

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

6. The administrative hearing process shall include all of the following:

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

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

(c) The administrative review shall be conducted before a hearing officer. In addition to any other requirements, a hearing officer shall demonstrate the qualifications, training, and objectivity as are necessary to fulfill and that are consistent with the duties and responsibilities set forth in this subdivision.

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

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

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

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

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

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

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

PART Q

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

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

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

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

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

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation, or other business entity that has designated the secretary of state as agent for service of process pursuant to article nine of this chapter, shall be made by [~~personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement~~] mailing the process and notice of service thereof by certified mail, return receipt requested, to such

corporation or other business entity, at the post office address on file in the department of state specified for this purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the process and notice of service thereof shall be mailed, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department. On the same day that such process is mailed, a 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 resignation[~~,~~] for receipt of process, or if the [~~resigning~~] designating corporation has no registered agent, then to the last address of the designating corporation known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating corporation, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the corporation, specifying what efforts were made.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1311. Termination of existence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby[~~,~~]**.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1312. Termination of existence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

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

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

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

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

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

(3) each change effected thereby.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

statement that the registered agent is to be the agent of the foreign limited liability partnership upon whom process against it may be served; (vii) a statement that its registration as a limited liability partnership is effective in the jurisdiction in which it registered as a limited liability partnership at the time of the filing of such notice; (viii) a statement that the foreign limited liability partnership is filing a notice in order to obtain status as a New York registered foreign limited liability partnership; (ix) if the registration of the foreign limited liability partnership is to be effective on a date later than the time of filing, the date, not to exceed sixty days from the date of filing, of such proposed effectiveness; and (x) any other matters the foreign limited liability partnership determines to include in the notice. Such notice shall be accompanied by either (1) a copy of the last registration or renewal registration (or similar filing), if any, filed by the foreign limited liability partnership with the jurisdiction where it registered as a limited liability partnership or (2) a certificate, issued by the jurisdiction where it registered as a limited liability partnership, substantially to the effect that such foreign limited liability partnership has filed a registration as a limited liability partnership which is effective on the date of the certificate (if such registration, renewal registration or certificate is in a foreign language, a translation thereof under oath of the translator shall be attached thereto). Such notice shall also be accompanied by a fee of two hundred fifty dollars.

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

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

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

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

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

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

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

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

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

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

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

until the filing of a certificate under this chapter directing the mailing to a different post office address.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall mail a copy of any such process against such petroleum business which may be served upon [~~him~~] **the secretary of state**. In case any such petroleum business shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed such a petroleum business shall be deemed to have directed [~~the secretary of state~~] **a person** to mail copies of process served upon [~~him~~] **the secretary of state** to such petroleum business at its last known office address within or without the state. When a certificate of designation has been filed by such a petroleum business [~~the secretary of state~~] **a person serving process** shall mail copies of process thereafter served upon [~~him~~] **the secretary of state** to the address set forth in such certificate. Any such petroleum business, from time to time, may change the address to which [~~the secretary of state~~] **a person** is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided.

(b) Service of process.--Service of process upon any petroleum business which is a corporation (including any such petroleum business having a certificate of authority [~~under section two hundred twelve of the general corporation law~~] or having authority to do business by virtue of section thirteen hundred five of the business corporation law), in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service [~~duplicate copies~~] **a copy** thereof at the office of the department of state in the city of Albany, in which event [~~the secretary of state~~] **a person serving process** shall forthwith send by [~~registered~~] **certified** mail, return receipt requested, [~~one of such copies~~] **a duplicate copy** to such petroleum business at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in the city of Albany and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such petroleum business, or the officer performing corresponding functions under another name, or a director or managing agent of such petroleum business, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

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

PART R

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

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

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

PART S

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

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

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

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

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

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

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

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

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

(i) tailors or businesses providing aftermarket clothing alterations;

(ii) barbers or hair salons;

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

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

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

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

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

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

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

(b) Before any violation of this section is sought to be enjoined, the attorney general shall be required to give the person against whom such proceeding is contemplated notice by certified mail and an opportunity to show in writing within five business days after receipt of notice why proceedings should not be instituted against him, unless the attorney general shall find, in any case in which he seeks preliminary relief, 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. "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 service, in which such telephone call or electronic messaging text is for the purpose of inducing payment or the exchange of any other consideration for any goods or services.

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

a. in response to an express written or verbal request by the customer; or

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

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

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

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

15. "Area code" means the first three digits of the ten-digit telephone number.

16. "Entity specific 'do-not-call' list" means the list of telephone numbers provided directly to the telemarketer by the owners of the telephone numbers for the purpose of being removed from any future telemarketing calls.

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

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

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

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

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

22. "Voice service provider" means any person who provides voice services to subscribers in the state utilizing any technology, regardless of whether such provider is regulated pursuant to the public service law.

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

24. "Auto-dialed call" means any telephone call initiated by an automatic telephone dialing system.

25. "SHAKEN" means signature-based handling of asserted information using toKENs.

26. "STIR" means secure telephone identity revisited.

27. "STIR/SHAKEN authentication framework" means the digital certificate scheme to verify and authenticate caller identification for calls carried over an internet protocol (IP) network, based upon standards developed by stakeholders of the information and communications technology industry, as referenced in the notice of inquiry of the federal communications commission, 32 FCC Rcd 5988.

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

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

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

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

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

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

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

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

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

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

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

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

a. the telemarketer's name and the person on whose behalf the solicitation is being made, if other than the telemarketer;

b. the purpose of the telephone call;

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

d. whether the call is being recorded.

2. It shall be unlawful for any telemarketer or seller to knowingly cause any voice service providing caller identification service to transmit misleading, inaccurate, or false caller identification information, provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name or telephone number of the person or seller on behalf of which a telemarketing call is placed.

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

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

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

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

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

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

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

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

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

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

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

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

f. contains the following language:

(i) "This express agreement applies only between the customer and the specific entity offering the agreement, and any named partner or affiliate entity."

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

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

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

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

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

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

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

14. a. The department shall provide notice to customers of the establishment of the national Do Not Call registry. Any customer who wishes to be included on such registry shall notify the federal trade commission as directed by relevant federal regulations.

b. Any company that provides local telephone directories to customers in this state shall inform its customers of the provisions of this section by means of publishing a notice in such local telephone directories and on any website and social media page owned, operated or otherwise authorized by such company.

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

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

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

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

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

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

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

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

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

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

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

b. Establishment of one or more physical address locations in the United States. All such information shall be confirmed and updated annually.

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

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

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

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

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

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

b. an assessment of the efficacy of the call authentication frameworks described in paragraph b of subdivision one of this section, in addressing all aspects of call authentication; and

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

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

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

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

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

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

§ 904. Telephone call blocking. 1. Consistent with authorization provided by federal law and rules or orders of the federal communications commission or its successors:

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

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

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

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

(ii) a valid North American numbering plan number that is not allocated to a provider by the North American numbering plan administrator or the pooling administrator; and

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

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

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

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

3. Deployment of any call blocking services shall result in no additional surcharge or fee to the subscriber.

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

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

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

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

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

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

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

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

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

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

a. state at the beginning of the call the nature of the call and the name of the person or on whose behalf the message is being transmitted and at the end of such message the address, and telephone number of the person on whose behalf the message is transmitted, provided such disclosures are not otherwise prohibited or restricted by any federal, state or local law; and

b. disconnect the automatic telephone dialing system from the telephone line upon the termination of the call by either the person calling or the person called.

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

4. No automatic telephone dialing system shall be used to call and no consumer telephone call shall be placed to an emergency telephone line including but not limited to any 911 or E-911 line, or any emergency line of any volunteer fire company or fire department; any emergency medical service, ambulance service, voluntary ambulance service or hospital ambulance service as defined in section three thousand one of the public health law; any hospital, nursing home, or residential health care facility as defined in section twenty-eight hundred one of the public health law; any adult care facility as defined in section two of the social services law; or any law enforcement agency or to the telephone line of any guest room or patient room of any hospital, nursing home, or residential health care facility as defined in section twenty-eight hundred one of the public health law, or any adult care facility as defined by section two of the social services law. It shall not constitute a violation of this subdivision if the person who places such a call can affirmatively establish that the call was placed inadvertently despite good faith efforts on the part of such person to comply with the provisions of this section and such person has implemented a procedure to prevent subsequent calls from being placed to a particular prohibited telephone number.

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

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

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

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

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

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

9. In addition to the right of action granted to the attorney-general pursuant to this section, any person who has received a telephone call in violation of subdivision two, three or four of this section may bring an action in such person's own name to enjoin such unlawful act or practice, an action to recover such person's actual damages or five hundred 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 such subdivisions. The court may award reasonable attorney's fees to a prevailing plaintiff. Any damages recoverable pursuant to this section may be recovered in any action which a court may authorize to be brought as a class action pursuant to article nine of the civil practice law and rules.

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

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

able as providing additional protections to victims of telemarketing fraud.

2. Registration of telemarketers. a. No person shall act as a telemarketer without first having received a certificate of registration from the secretary as provided in this section. Employees of telemarketers shall be exempt from the requirements of this paragraph and paragraph b of this subdivision.

b. No person required to register pursuant to paragraph a of this subdivision shall act as a telemarketer without holding a valid certificate of registration from the secretary as provided in this section.

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

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

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

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

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

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

(vi) whether any injunction or judgment has been entered into against the applicant or any principal, or such applicant or principal has entered into a settlement agreement, assurance of discontinuance, consent decree or any similar instrument in any civil action involving theft, racketeering, embezzlement, conversion, misappropriation of property, fraud, or deceptive, unfair, illegal or unconscionable trade practices, and whether any civil action involving such practices is currently pending, to the extent not inconsistent with any existing court orders; and

(vii) whether the license to engage in any business, trade or profession of the applicant or any principal thereof has been refused, suspended or revoked in any jurisdiction.

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

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

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

f. Each application for a certificate of registration shall be accompanied by a fee of five hundred dollars, which shall not be refundable.

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

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

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

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

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

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

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

b. Such bond, letter of credit, or certificate of deposit shall be maintained for three years from the date the telemarketer ceases telemarketing, or three years from the date the certificate of registration terminates, whichever is earlier.

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

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

e. The aggregate liability of the surety upon the bond or the banking organization upon the letter of credit or certificate of deposit to all persons for all breaches of the conditions of the bond shall in no event exceed the amount of the bond, letter of credit or certificate of deposit.

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

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

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

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

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

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

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

(iv) with respect to the applicant, is not the true owner of the telemarketer, except in the case of a franchise;

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

(A) this section;

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

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

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

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

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

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

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

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

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

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

(iii) give false or misleading information;

(iv) misrepresent himself or herself to be registered;

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

(vi) advertise telemarketing services without having a valid certificate of registration under this section;

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

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

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

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

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

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

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

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

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

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

(B) the telemarketer's name and the person on whose behalf the solicitation is being made if other than the telemarketer;

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

(D) whether the call is being recorded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Waiver. Any waiver of the provisions of this section by any customer shall be unenforceable and void.

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

(i) the state, municipalities of the state, or any department or division of the state or such municipalities;

(ii) the United States or any of its departments, agencies or divisions;

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

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

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

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

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

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

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

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

(iii) telephone calls that are received by a telemarketer initiated by a customer that are not the result of any solicitation by such telemarketer; and

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

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

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

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

(A) the telemarketer's name and the person on whose behalf the solicitation is being made if other than the telemarketer;

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

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

11. Fee and bonding exemptions. The following persons are exempt from the fee and bonding requirements set forth in paragraph f of subdivision two and subdivision three of this section: A person engaged in a business or occupation which is licensed, registered, chartered, certified or incorporated with or by any state or federal agency. Provided, however, any person not licensed, registered, chartered, certified or incorporated with any New York state or federal agency, shall submit evidence to the secretary of state, in a form and manner to be prescribed by the secretary, of any license, registration, charter, certification or incorporation issued by an agency or governmental entity in this or any other state.

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

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

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

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

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

13. Criminal penalties. Any person who is convicted of knowingly violating paragraph a or b of subdivision two of this section, or subparagraph (ii), (iii), (iv) or (v) of paragraph a of subdivision five of this section shall be guilty of a class B misdemeanor. Any person who is convicted of knowingly violating subparagraph (xi) or (xii) of paragraph a of subdivision five of this section shall be guilty of a class A misdemeanor.

14. Separability clause; construction. If any part or provision of this section 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 operations 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 section or the application thereof to other persons or circumstances.

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

§ 3. This act shall take effect immediately.

PART U

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

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

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

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

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

Dexter. The figure of Liberty proper, her hair disheveled and decorated with pearls, vested azure, sandaled gules, about the waist a cincture or, fringed gules, a mantle of the last depending from the shoulders behind to the feet, in the dexter hand a staff ensigned with a Phrygian cap or, the sinister arm embowed, the hand supporting the shield at the dexter chief point, a royal crown by her sinister foot dejected.

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

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

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

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

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

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

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

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

PART V

Section 1. Subdivision 1 of section 130 of the executive law, as amended by section 1 of subpart D of part II of chapter 55 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. 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, in this state or any other state or territory, of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do 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, in this state or any other state or territory, of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article twenty-three-A of the correction law, that such convictions do not constitute a bar to appointment.

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

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

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

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

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

1. If the applicant is a person, the application shall be subscribed by such person, and if the applicant is a firm or partnership the application shall be subscribed by each individual composing or intending to compose such firm or partnership. The application shall state the full name, age, residences within the past three years, present and previous occupations of each person or individual so signing the same, [~~that each person or individual is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States~~] and shall also specify the name of the city, town or village, stating the street and number, if the premises have a street and number, and otherwise such apt description as will reasonably indicate the location thereof, where is to be located the principal place of business and the bureau, agency, sub-agency, office or branch office for which the license is desired, and such further facts as may be required by the department of state to show the good character, competency and integrity of each person or individual so signing such application. Each person or individual signing such application shall, together with such application, submit to the department of state, his photograph, taken within six months prior thereto in duplicate, in passport size and also two sets of fingerprints of his two hands recorded in such manner as may be specified by the secretary of state or the secretary of state's authorized representative. Before approving such application it shall be the duty of the secretary of state or the secretary of state's authorized representative to forward one copy of such fingerprints to the division of criminal justice services. Upon receipt of such fingerprints, such division shall forward to the secretary of state a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. If additional copies of fingerprints are required the applicant shall furnish them upon request. Such fingerprints may be submitted to the federal bureau of investigation for a national criminal history record check. The secretary shall reveal the name of the applicant to the chief of police and the district attorney of the applicant's residence and of the proposed place of business and shall request of them a report concerning the applicant's character in the event they shall have information concerning it. The secretary shall take such other steps as may be necessary to investigate the honesty, good character and integrity of each applicant. Every such applicant for a license as private investigator shall establish to the satisfaction of the secretary of state (a) if the applicant be a person, or, (b) in the case of a firm, limited liability company, partnership or corporation, at least one member of such firm, partnership, limited liability company or corporation, has been regularly employed, for a period of not less than three years, undertaking such investigations as those described as performed by a private investigator in subdivision one of section seventy-one of this article, as a sheriff, police officer in a city or county police department, or the division of state police, investigator in an agency of the state, county, or United States government, or employee of a

licensed private investigator, or has had an equivalent position and experience or that such person or member was an employee of a police department who rendered service therein as a police officer for not less than twenty years or was an employee of a fire department who rendered service therein as a fire marshal for not less than twenty years. However, employment as a watchman, guard or private patrolman shall not be considered employment as a "private investigator" for purposes of this section. Every such applicant for a license as watch, guard or patrol agency shall establish to the satisfaction of the secretary of state (a) if the applicant be a person, or, (b) in the case of a firm, limited liability company, partnership or corporation, at least one member of such firm, partnership, limited liability company or corporation, has been regularly employed, for a period of not less than two years, performing such duties or providing such services as described as those performed or furnished by a watch, guard or patrol agency in subdivision two of section seventy-one of this article, as a sheriff, police officer in a city or county police department, or employee of an agency of the state, county or United States government, or licensed private investigator or watch, guard or patrol agency, or has had an equivalent position and experience; qualifying experience shall have been completed within such period of time and at such time prior to the filing of the application as shall be satisfactory to the secretary of state. The person or member meeting the experience requirement under this subdivision and the person responsible for the operation and management of each bureau, agency, sub-agency, office or branch office of the applicant shall provide sufficient proof of having taken and passed a written examination prescribed by the secretary of state to test their understanding of their rights, duties and powers as a private investigator and/or watchman, guard or private patrolman, depending upon the work to be performed under the license. In the case of an application subscribed by a resident of the state of New York such application shall be approved, as to each resident person or individual so signing the same, but not less than five reputable citizens of the community in which such applicant resides or transacts business, or in which it is proposed to own, conduct, manage or maintain the bureau, agency, sub-agency, office or branch office for which the license is desired, each of whom shall subscribe and affirm as true, under the penalties of perjury, that he has personally known the said person or individual for a period of at least five years prior to the filing of such application, that he has read such application and believes each of the statements made therein to be true, that such person is honest, of good character and competent, and not related or connected to the person so certifying by blood or marriage. In the case of an application subscribed by a non-resident of the state of New York such application shall be approved, as to each non-resident person or individual so signing the same by not less than five reputable citizens of the community in which such applicant resides. The certificate of approval shall be signed by such reputable citizens and duly verified and acknowledged by them before an officer authorized to take oaths and acknowledgment of deeds. All provisions of this section, applying to corporations, shall also apply to joint-stock associations, except that each such joint-stock association shall file a duly certified copy of its certificate of organization in the place of the certified copy of its certificate of incorporation herein required.

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

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

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

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

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

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

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

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

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

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

PART W

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

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

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

PART X

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

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

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.**

§ 2. Paragraph (r) of section 104-A of the business corporation law is 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. Section 409 of the business corporation law is REPEALED.

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

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

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

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

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

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

(e) [~~(1) Except as otherwise provided in this subdivision, every~~] **Every** limited liability company to which this chapter applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the secretary of state, a statement setting forth**:**

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

(ii) the name and address of any managers appointed or elected in accordance with the articles of organization or operating agreement; and

(iii) the name and address of the ten members with the largest percentage ownership interest, as determined as of the time the statement is filed by the department of state. No fee shall be collected for the filing of the statement.

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

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

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

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

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

function, of one of the states, or any subdivision thereof, of the United States or the District of Columbia. Without limiting the effect of section four hundred three of this chapter, filing and indexing by the department of state shall not be deemed a finding that a certificate conforms to law, nor shall it be deemed to constitute an approval by the department of state of the name of the corporation or the contents of the certificate, nor shall it be deemed to prevent any person with appropriate standing from contesting the legality thereof in an appropriate forum. **The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.**

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

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

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

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

date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing.

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

(g) Each registered limited liability partnership shall, within sixty days prior to the fifth anniversary of the effective date of its registration and every five years thereafter, furnish a statement to the department of state setting forth: (i) the name of the registered limited liability partnership, (ii) the address of the principal office of the registered limited liability partnership, (iii) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is eligible to register as a registered limited liability partnership pursuant to subdivision (a) of this section. The statement shall be executed by one or more partners of the registered limited liability partnership. [~~The statement shall be accompanied by a fee of twenty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow registered limited liability partnerships to provide the statement specified in this subdivision on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each registered limited liability partnership required to file the statement specified in this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this subdivision with the department of state. However, each registered limited liability partnership required to file a statement under this section must continue to file a statement with the department of state as required by this section until the registered limited liability partnership in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the registered limited liability partnership shall continue to provide annually the statement specified in this subdivision on its filing fee payment form in lieu of the statement required by this subdivision. The commissioner of taxation and finance shall deliver the completed statement specified in this subdivision to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the registered limited liability partnership, department of state identification number for such registered limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.~~] No fee shall be collected for the filing of the statement. If a registered limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such registered limited liability partnership as shown in the last registration or statement or certificate of amendment filed by such registered limited liability

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 the department of state. If, after the publication of such proclamation, it shall be determined by the department of state that the name of any registered limited liability partnership was erroneously included in such proclamation, the department of state shall make appropriate entry on its records, which entry 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 (A) such registered limited liability partnership shall 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 (B) 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 making of the entry on the records of the department of state. Whenever a registered limited liability partnership whose registration was revoked shall have filed a statement pursuant to this subdivision or if the name of a registered limited liability partnership was erroneously included in a proclamation and such proclamation was annulled, the department of state shall publish a notice thereof in the state register.

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

(d) If a signed notice **or other instrument** delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state has been paid, the [~~notice~~] **instrument** shall be filed and indexed by the department of state. **The instrument's date of filing shall be the date the instrument was received by the department of state for filing. An instrument that is determined by the department of state to be unacceptable for filing shall be returned to the person filing the instrument with an explanation of the reason for the refusal to file. If the filer returns the**

corrected instrument within thirty days from the date it was originally received by the department of state and it is determined by the department of state to be acceptable for filing, the instrument shall be filed and indexed by the department of state and the filing date of the instrument shall be the filing date that would have been applied had the original instrument been acceptable for filing. If a foreign limited liability partnership that is a New York registered foreign limited liability partnership dissolves, a foreign limited liability partnership which is the successor to such New York registered foreign limited liability partnership (i) shall not be required to file a new notice and shall be deemed to have filed the notice filed by the New York registered foreign limited liability partnership pursuant to subdivision (a) of this section, as well as any withdrawal notice filed pursuant to subdivision (e) of this section, any statement or certificate of consent filed pursuant to subdivision (f) of this section and any notice of amendment filed pursuant to subdivision (i) of this section and (ii) shall be bound by any revocation of status pursuant to subdivision (f) of this section and any annulment thereof of the dissolved foreign limited liability partnership that was a New York registered foreign limited liability partnership. For purposes of this section, a foreign limited liability partnership is a successor to a foreign limited liability partnership that was a New York registered foreign limited liability partnership if a majority of the total interests in the current profits of such successor foreign limited liability partnership are held by partners of the predecessor foreign limited liability partnership that was a New York registered foreign limited liability partnership who were partners of such predecessor partnership immediately prior to the dissolution of such predecessor partnership.

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

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

(i) the name under which the New York registered foreign limited liability partnership is carrying on or conducting or transacting business or activities in this state, (ii) the address of the principal office of the New York registered foreign limited liability partnership, (iii) the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her, which address shall supersede any previous address on file with the department of state for this purpose, and (iv) a statement that it is a foreign limited liability partnership. The statement shall be executed by one or more partners of the New York registered foreign limited liability partnership. [~~The statement shall be accompanied by a fee of fifty dollars if submitted directly to the department of state. The commissioner of taxation and finance and the secretary of state may agree to allow New York registered foreign limited liability partnerships to provide the statement specified in this paragraph on tax reports filed with the department of taxation and finance in lieu of statements filed directly with the secretary of state and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each New York registered foreign limited liability partnership required to file the statement~~

~~specified in this paragraph that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee payment form filed with the department of taxation and finance in lieu of filing a statement under this paragraph directly with the department of state. However, each New York registered foreign limited liability partnership required to file a statement under this section must continue to file a statement with the department of state as required by this section until the New York registered foreign limited liability partnership in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the New York registered foreign limited liability partnership shall continue to provide annually the statement specified in this paragraph on its filing fee payment form in lieu of filing the statement required by this paragraph directly with the department of state. The commissioner of taxation and finance shall deliver the completed statement specified in this paragraph to the department of state for filing. The department of taxation and finance must, to the extent feasible, also include in such delivery the current name of the New York registered foreign limited liability partnership, department of state identification number for such New York registered foreign limited liability partnership, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.~~] **No fee shall be collected for the filing of the statement.** If a New York registered foreign limited liability partnership shall not timely file the statement required by this subdivision, the department of state may, upon sixty days' notice mailed to the address of such New York registered foreign limited liability partnership as shown in the last notice or statement or certificate of amendment filed by such New York registered foreign limited liability partnership, make a proclamation declaring the status of such New York registered foreign limited liability partnership to be revoked pursuant to this subdivision. [~~This shall not apply to New York registered foreign limited liability partnerships that have filed a statement with the department of state through the department of taxation and finance.~~] The department of state shall file the original proclamation in its office and shall publish a copy thereof in the state register no later than three months following the date of such proclamation. Upon the publication of such proclamation in the manner aforesaid, the status of each New York registered foreign limited liability partnership named in such proclamation shall be deemed revoked without further legal proceedings. Any New York registered foreign limited liability partnership whose status was so revoked may file in the department of state a statement required by this subdivision. The filing of such statement shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) the New York registered foreign limited liability partnership shall thereupon have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publi-

cation of the proclamation through the date of the filing of the statement with the department of state. If, after the publication of such proclamation, it shall be determined by the department of state that the name of any New York registered foreign limited liability partnership was erroneously included in such proclamation, the department of state shall make appropriate entry on its records, which entry shall have the effect of annulling all of the proceedings theretofore taken for the revocation of the status of such New York registered foreign limited liability partnership under this subdivision and (1) such New York registered foreign limited liability partnership shall have such powers, rights, duties and obligations as it had on the date of the publication of the proclamation, with the same force and effect as if such proclamation had not been made or published and (2) such publication shall not affect the applicability of the laws of the jurisdiction governing the agreement under which such New York registered foreign limited liability partnership is operating (including laws governing the liability of partners) to any debt, obligation or liability incurred, created or assumed from the date of publication of the proclamation through the date of the making of the entry on the records of the department of state. Whenever a New York registered foreign limited liability partnership whose status was revoked shall have filed a statement pursuant to this subdivision or if the name of a New York registered foreign limited liability partnership was erroneously included in a proclamation and such proclamation was annulled, the department of state shall publish a notice thereof in the state register.

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

§ 16. Subdivision 5 of section 211 of the tax law is REPEALED.

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

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

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

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

PART Y

Section 1. Expenditures of moneys appropriated in a chapter of the laws of 2020 to the department of agriculture and markets from the special revenue funds-other/state operations, miscellaneous special revenue fund-339, public service account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of agriculture and markets' participation in general ratemaking proceedings pursuant to section 65 of the public service law or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within

the meaning of section 18-a of the public service law. No later than August 15, 2021, the commissioner of the department of agriculture and markets shall submit an accounting of such expenses, including, but not limited to, expenses in the 2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

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

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

§ 4. Expenditures of moneys appropriated in a chapter of the laws of 2020 to the department of environmental conservation from the special revenue funds-other/state operations, environmental conservation special revenue fund-301, utility environmental regulation account shall be subject to the provisions of this section. Notwithstanding any other provision of law to the contrary, direct and indirect expenses relating to the department of environmental conservation's participation in state energy policy proceedings, or certification proceedings pursuant to article 7 or 10 of the public service law, shall be deemed expenses of the department of public service within the meaning of section 18-a of the public service law. No later than August 15, 2021, the commissioner of the department of environmental conservation shall submit an accounting of such expenses, including, but not limited to, expenses in the

2020--2021 state fiscal year for personal and non-personal services and fringe benefits, to the chair of the public service commission for the chair's review pursuant to the provisions of section 18-a of the public service law.

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

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

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

PART Z

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 follows:

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

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

(b) [~~Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty as set forth in this subdivision, it shall notify such corporation or officer.~~] **To inform the commission's decision under this section, the department is authorized, pursuant to a referral made by the chief executive officer of the department, to commence a proceeding pursuant to this section upon issuance of a notice of violation if it believes that a combination gas and electric corporation, or such officers thereof, may be subject to imposition of a civil penalty as set forth in this subdivision and/or such other relief as may be required to address such alleged violation.** Such notice shall

include, but shall not be limited to: (i) the date and a brief description of the facts and nature of each act or failure to act for which such penalty is proposed; (ii) a list of each statute, regulation or order that the [~~commission~~] **department** alleges has been violated; [~~and~~] (iii) the amount of each penalty that the [~~commission~~] **department** proposes [~~to assess~~] **be assessed; and (iv) any proposed actions that the department deems necessary to address such alleged violation or violations. To further inform the commission's decision pursuant to this subdivision, the department is authorized to undertake any additional administrative or investigatory actions related to such violation or violations, including but not limited to, service of an administrative complaint, implementation of discovery, and the holding of evidentiary hearings**.

(c) [~~Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty or penalties as set forth in this subdivision, the commission shall hold a hearing to demonstrate why the proposed penalty or penalties should be assessed against such combination gas and electric corporation or such officers~~] **Any assessment of penalties, resolution of claims or imposition of other relief levied by the department pursuant to an investigation or compliant proceeding commenced pursuant to paragraph (b) of this subdivision shall be subject to review and approval by the commission**.

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

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

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

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

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

(a) five hundred thousand dollars or four one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

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

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

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

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

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

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

11. It shall be a violation of this chapter should a director, officer or employee of a public utility company, corporation, person acting in his or her official duties or employment, or an agent acting on behalf of an employer take retaliatory personnel action such as discharge, suspension, demotion, penalization or discrimination against an employee for reporting a violation of a provision of this chapter [~~of~~] **or** an order or regulation adopted under the authority of this chapter, including, but not limited to, those governing safe and adequate service,

protection of human safety or prevention of significant damage to real property, including, but not limited to, the commission's code of gas safety. Nothing in this subdivision shall be deemed to diminish the rights, privileges or remedies of any employee under any other law or regulation, including but not limited to article twenty-C of the labor law and section seventy-five-b of the civil service law, or under any collective bargaining agreement or employment contract.

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

§ 25-b. Administrative actions against other regulated entities. Notwithstanding any other provision of this chapter, section twenty-five-a of this article shall apply in equal force to: (1) an electric corporation as defined in subdivision thirteen of section two of this chapter; (2) a gas corporation as defined in subdivision eleven of section two of this chapter; (3) a cable television company or cable television system as defined in subdivisions one and two of section two hundred twelve of this chapter; (4) a telephone corporation as defined in subdivision seventeen of section two of this chapter; (5) a steam 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.

9. "ISP traffic exchange" means the exchange of internet traffic destined for, or originating from, an internet service provider's end users between the internet service provider's network and another individual or entity.

10. "Mass market" means a service marketed and sold on a standardized basis to residential customers, small businesses, and other end-use customers, including, but not limited to, schools, institutions of higher learning and libraries.

11. "Mobile broadband internet access" means a broadband internet access service that serves end users primarily using mobile stations.

12. "Network management practice" means a practice that has a primarily technical network management justification.

13. "Reasonable network management practice" means a network management practice that is primarily used for, and tailored to, achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband internet access service.

14. "Third-party paid prioritization" means the management of an internet service provider's network to directly or indirectly favor some traffic over other traffic, including the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either:

(a) in exchange for consideration, monetary or otherwise, from a third party; or

(b) to benefit an affiliated entity.

15. "Zero-rating" means exempting some internet traffic from a customer's data usage limitation.

§ 251. Prohibitions. 1. Notwithstanding any inconsistent provisions of this chapter, it shall be unlawful for an ISP, in providing broadband internet access service in the state, to engage in any of the following activities:

(a) Blocking lawful content, applications, services, or non-harmful devices, subject to reasonable network management practices.

(b) Throttling, altering, restricting, interfering with, or otherwise directly or indirectly favoring, disadvantaging, or discriminating between lawful internet traffic on the basis of source, destination, internet content, application, or service, or use of a non-harmful

device, or of class of internet content, application, service, or non-harmful device, subject to reasonable network management practices.

(c) Engaging in third-party paid prioritization.

(d) Engaging in application-specific differential pricing or zero-rating in exchange for consideration, monetary or otherwise, by third parties.

(e) Zero-rating some internet content, applications, services, or devices in a category of internet content, applications, services, or devices, but not the entire category.

(f) Engaging in application-specific differential pricing.

(g) Unreasonably interfering with, or unreasonably disadvantaging, either an end user's ability to select, access, and use broadband internet access service or lawful internet content, applications, services, or devices of the end user's choice, subject to reasonable network management practices.

(h) Engaging in practices with respect to, related to, or in connection with ISP traffic exchange that has the purpose or effect of circumventing or undermining the effectiveness of this section.

(i) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of internet traffic, content, applications, service or devices by the internet service provider, or that misrepresent the performance characteristics or commercial terms of the broadband internet access service to its customers.

(j) Advertising, offering for sale or selling broadband internet access service without prominently disclosing with specificity all aspects of the service advertised, offered for sale or sold.

(k) Failing to publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband internet access services sufficient for consumers to make informed choices regarding use of those services and for content, application, service and device providers to develop, market and maintain internet offerings.

(l) Offering or providing services other than broadband internet access service that are delivered over the same last-mile connection as the broadband internet access service, if those services satisfy any of the following conditions:

(i) such services are marketed, provide or can be used as a functional equivalent of broadband internet access service;

(ii) such services have the purpose or effect of circumventing or undermining the effectiveness of this section; or

(iii) such services negatively affect the performance of broadband internet access service.

2. (a) An internet service provider may offer different types of technical treatment to end users as part of its broadband internet access service, without violating the provisions of subdivision one of this section, if all of the following conditions exist:

(i) the different types of technical treatment are equally available to all internet content, applications, services and devices, and all classes of internet content, applications, services and devices, and the internet service provider does not discriminate in the provision of the different types of technical treatment on the basis of internet content, application, service or device, or class of internet content, application, service or device;

(ii) the internet service provider's end users are able to choose whether, when, and for which internet content, applications, services,

or devices, or classes of internet content, applications, services, or devices, to use each type of technical treatment; and

(iii) the internet service provider charges only its own broadband internet access service customers for the use of the different types of technical treatment.

(b) Any internet service provider offering different types of technical treatment pursuant to this subdivision shall notify the department and provide the department with a sample of any service contract that it offers to customers in the state of New York.

3. An internet service provider may zero-rate internet traffic in application-agnostic ways, without violating the provisions of subdivision one of this section, provided that no consideration, monetary or otherwise, is provided by any third party in exchange for the provider's decision to zero-rate or to not zero-rate traffic.

4. Nothing in this section prohibits an ISP from meeting an obligation to address the needs of emergency communications or law enforcement, public safety or national security authorities, consistent with or as permitted by applicable law, or limits the ISP's ability to do so.

§ 252. Consumer notice of service practices. An ISP providing broadband service in the state shall make publicly available an accurate description of such ISP's network management practices, performance and commercial terms of its broadband internet access service by posting such description on an ISP controlled or maintained website, provided that nothing in this section shall require ISPs to disclose confidential business information or information that would compromise network security.

§ 253. Annual certification. Every ISP providing broadband service in the state shall submit a certification to the department in a form and manner specified by the commission, by July first, two thousand twenty-one and annually thereafter. Such certification shall include, at a minimum:

1. a statement indicating whether the ISP is in compliance with sections two hundred fifty-one and two hundred fifty-two of this article;

2. a description of such ISP's efforts in the preceding year to inform end users of the provider's efforts to ensure net neutral service and the address of the ISP's website where such information is provided; and

3. any other information required by rules promulgated by the department and approved by the commission.

§ 254. Administration and enforcement. 1. The commission shall be authorized to promulgate any rules or regulations necessary to implement the provisions of this article.

2. Violations of any duty imposed by this article shall be enforceable by the commission. Any ISP that violates any provision of or fails to perform any duty imposed pursuant to this article or any rule or regulation promulgated pursuant thereto, or any final determination or order of the commission made pursuant to this article shall be liable for a civil penalty not to exceed five hundred dollars for each violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues.

3. In addition to the authority granted to the commission pursuant to this chapter, the attorney general may enforce the provisions of this article to the extent permitted under section sixty-three of the executive law.

4. Nothing in this article shall preclude or prohibit any public or private right of action relating to fraud or deceptive business practices.

§ 255. Severability. The provisions of this article shall be severable and if any phrase, clause, sentence or provision of this article, or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this article and the application thereof shall not be affected thereby.

§ 2. The state finance law is amended by adding a new section 169 to read as follows:

§ 169. Net neutrality. Each state agency shall enter into contracts with only those internet service providers that have, by July first, two thousand twenty-one, certified pursuant to section two hundred fifty-three of the public service law that they are in compliance with sections two hundred fifty-one and two hundred fifty-two of the public service law. Each contract for internet services provided to a state agency shall specifically require certification pursuant to section two hundred fifty-three of the public service law and state that the internet service provider may not block lawful content, applications, services, non-harmful devices or applications that compete with other services provided by such internet service provider. Any contract or contract renewal entered into by a state agency shall include a binding agreement consistent with the foregoing provisions, and no state agency shall enter into a contract with an internet service provider, an agent therefor or other entity offering to or procuring on behalf of the state agency internet services unless such contract contains such a binding agreement.

§ 3. Subdivision 9 of section 160 of the state finance law, as amended by chapter 106 of the laws of 2012, is amended to read as follows:

9. "State agency" or "state agencies" means all state departments, boards, commissions, offices or institutions but excludes, however, for the purposes of subdivision five of section three hundred fifty-five of the education law, the state university of New York and excludes, for the purposes of subdivision a of section sixty-two hundred eighteen of the education law, the city university of New York; provided, however, that the state university of New York and the city university of New York shall be subject to the provisions of section one hundred sixty-five-a and section one hundred sixty-nine of this article. Furthermore, such term shall not include the legislature or the judiciary.

§ 4. The public authorities law is amended by adding a new section 2878-c to read as follows:

§ 2878-c. Net neutrality. After July first, two thousand twenty-one, each state agency shall enter into contracts with only those internet service providers that have, by such date, certified pursuant to section two hundred fifty-three of the public service law that they are in compliance with sections two hundred fifty-one and two hundred fifty-two of the public service law. Each contract for internet services provided to a state agency shall specifically require certification pursuant to section two hundred fifty-three of the public service law and state that the internet service provider may not block lawful content, applications, services, non-harmful devices or applications that compete with other services provided by such internet service provider. Any contract or contract renewal entered into by a state authority shall include a binding agreement consistent with the foregoing provisions, and no state authority shall enter into a contract with an internet service provider, an agent therefor or other entity offering to or procuring on behalf of

the state authority internet services unless such contract contains such a binding agreement.

§ 5. Section 349 of the general business law is amended by adding a new subdivision (k) to read as follows:

(k) 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 in relation to obligations imposed by section two hundred fifty-one of the public service law may bring an action to enjoin such unlawful act or practice, an action to recover actual damages or five hundred 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 if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorneys' fees to a prevailing plaintiff.

§ 6. This act shall take effect immediately.

PART BB

Section 1. The general municipal law is amended by adding a new article 13-E to read as follows:

ARTICLE 13-E
SMALL WIRELESS FACILITIES DEPLOYMENT

Section 300. Definitions.
301. Use of right of way for small wireless facilities and utility poles.
302. Permitting process for small wireless facilities.
303. Access to municipal corporation poles within the right of way.
304. Rates and fees.
305. Cable services.
306. Local authority.
307. Investor-owned electric utility poles.
308. Implementation.
309. Dispute resolution.
310. Indemnification, insurance, and bonding.

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

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

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

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

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

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

6. "Pole" means a utility pole owned, managed or operated by or on behalf of a municipal corporation.

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

8. "Communications facility" means the set of equipment and network components, including wires, cables, and associated facilities used by a cable operator, as defined in 47 U.S.C. Section 522(5); a telecommunications carrier, as defined in 47 U.S.C. Section 153(51); a provider of information service, as defined in 47 U.S.C. Section 153(24); a wireless services provider to provide communications services, including cable service, as defined in 47 U.S.C. Section 522(6); telecommunications service, as defined in 47 U.S.C. Section 153(53); an information service, as defined in 47 U.S.C. Section 153(24); wireless service; or other one-way or two-way communications service.

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

10. "Decorative pole" means a pole that is specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than a small wireless facility, lighting, specially designed informational or directional signage, or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal rules or codes.

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

12. "Fee" means a one-time, nonrecurring charge.

13. "Historic district" means a group of buildings, properties, or sites that are either: (a) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified at 47 C.F.R. Part 1, Appendix C; or (b) a registered historic district as defined in section ninety-six-a of this chapter or article five-K of this chapter as of the effective date of this section.

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

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

16. "Network interface device" means the telecommunications demarcation and test point separating the wireless facility and the wireline backhaul facility.

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

18. "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including a municipal corporation.

19. "Rate" means a recurring charge.

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

21. "Small wireless facility" means a wireless facility that meets both of the following qualifications: (a) each wireless provider's antenna could fit within an enclosure of no more than six cubic feet in volume; and (b) all other wireless equipment associated with the wireless facility, whether ground or aerially mounted or attached to a utility pole or wireless support structure, is cumulatively no more than twenty-eight cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, network interface device, grounding equipment, power transfer switch, cut-off switch, converters, amplifiers, splice cases, and vertical cable runs for the connection of power and other services.

22. "Technically feasible" means that by virtue of engineering or spectrum usage the proposed placement for a small wireless facility, or its design, concealment measures, or site location can be implemented without a reduction in the functionality of the small wireless facility.

23. "Utility pole" means a pole or similar structure that is or may be used in whole or in part or for wireline communications, electric distribution, lighting, traffic control, signage, or a similar function, or for the collocation of small wireless facilities; provided, however, such term shall not include wireless support structures or electric transmission structures.

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

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

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

27. "Wireless services" means any services using licensed or unlicensed spectrum including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

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

29. "Wireless support structure" means a structure, such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing or proposed structure designed to support or capable of supporting wireless facilities, other than a structure designed solely

for the collocation of small wireless facilities. Such term shall not include a utility pole.

30. "Wireline backhaul facility" means an above-ground or underground wireline facility used to transport communications data from a wireless facility network interface device to a network.

§ 301. Use of right of way for small wireless facilities and utility poles. 1. Applicability. This section shall only apply to the activities of a wireless provider within the right of way to deploy small wireless facilities and associated utility poles.

2. Exclusive use prohibited. A municipal corporation may not enter into an exclusive arrangement with any person for use of the right of way for the collocation of small wireless facilities or for the installation, operation, marketing, modification, maintenance or replacement of utility poles.

3. Right of way rates and fees. A municipal corporation may only charge a wireless provider a rate or fee for the use of the ROW with respect to the collocation of small wireless facilities or the installation, maintenance, modification, operation, or replacement of a utility pole in the right of way if the municipal corporation charges other entities for use of the right of way. Notwithstanding the foregoing, a municipal corporation is permitted, on a nondiscriminatory basis, to refrain from charging any rate to a wireless provider for the use of the right of way. The rate for use of the right of way is provided in section three hundred four of this article.

4. Right of access. Subject to this section, a wireless provider shall have the right, as a permitted use not subject to zoning review or approval, to collocate small wireless facilities and to install, maintain, modify, operate and replace utility poles along, across, upon, and under the right of way. Such structures and facilities shall be so installed and maintained as not to obstruct or hinder the usual travel or public safety on such right of way or obstruct the legal use of such right of way by utilities.

5. Height limits. Each new or modified utility pole installed in the right of way shall not exceed the greater of: (a) ten feet in height above the tallest existing utility pole in place as of the effective date of this article located within five hundred feet of the new pole in the same municipal corporation's right of way; or (b) fifty feet above ground level. New small wireless facilities in the right of way may not extend: (i) more than ten feet above an existing utility pole in place as of the effective date of this article; or (ii) for small wireless facilities on a new utility pole, above the height permitted for a new utility pole under this section. A wireless provider shall have the right to collocate a small wireless facility and install, maintain, modify, operate and replace a utility pole that exceeds these height limits along, across, upon and under the right of way, subject to this section and applicable zoning regulations.

6. Decorative poles. A wireless provider shall be permitted to collocate on or replace decorative poles when necessary to deploy a small wireless facility. A municipal corporation may require such collocation or decorative pole replacement to reasonably conform to the design aesthetics of the original decorative pole or poles, provided such requirements are technically feasible.

7. Underground district. (a) A wireless provider shall comply with written, objective, reasonable and nondiscriminatory requirements that prohibit the installation of utility poles or wireless support structures in the right of way in an area designated solely for underground

communications and electric lines where: (i) the municipal corporation has required all such lines to be placed underground no less than three months prior to the submission of the application; (ii) utility poles the municipal corporation allows to remain shall be made available to wireless providers for the collocation of small wireless facilities, and may be replaced by a wireless provider to accommodate the collocation of small wireless facilities, in compliance with this article; and (iii) a wireless provider may install a new utility pole in the designated area that otherwise complies with this section when it is not able to provide wireless service by collocating on a remaining utility pole or wireless support structure.

(b) For small wireless facilities installed before a municipal corporation adopts requirements that communications and electric lines be placed underground, such municipal corporation adopting such requirements shall: (i) permit a wireless provider to maintain the small wireless facilities in place subject to any applicable pole attachment agreement with the utility pole owner; or (ii) permit the wireless provider to replace the associated utility pole within fifty feet of the prior location.

8. Historic district. Subject to subdivision four of section three hundred two of this article, a municipal corporation may require written, objective, reasonable, technically feasible, nondiscriminatory and technologically neutral design or concealment measures in a historic district. No such design or concealment measures may have the effect of materially inhibiting any provider's technology or service; nor may any such measures be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility.

9. No discrimination. The municipal corporation, in the exercise of its administration and regulation related to the management of the right of way, must be competitively neutral with regard to other users of the right of way. The municipal corporation's right of way regulations may not be unreasonable or discriminatory and may not violate any applicable law.

10. Damage and repair. The municipal corporation may require a wireless provider to repair all damage to the right of way directly caused by the activities of the wireless provider in the right of way and to return the right of way to its functional equivalence before the damage pursuant to the competitively neutral, reasonable requirements and specifications of the municipal corporation. If the wireless provider fails to make the repairs reasonably required by the municipal corporation within a reasonable time after written notice, the municipal corporation may affect those repairs and charge the applicable party the reasonable, documented actual cost of such repairs.

11. Pole replacements and modifications. A wireless provider shall not be required to replace or upgrade an existing utility pole except for reasons of structural necessity or compliance with applicable codes. A wireless provider may, with the permission of the pole owner, replace or modify existing utility poles, but any such replacement or modification shall be consistent with the design aesthetics of the utility pole or poles being modified or replaced.

12. Permitted use. New, modified or replacement utility poles associated with a small wireless facility that meet the requirements of this section are permitted uses subject to the permit process in subdivision four of section three hundred two of this article and are not subject to zoning review or approval.

13. Abandonment. A wireless provider is required to notify the municipal corporation at least thirty days before its abandonment of a small wireless facility. Following receipt of such notice, the municipal corporation shall direct the wireless provider to remove all or any portion of the small wireless facility that the municipal corporation determines would be in the best interest of the public safety and public welfare to remove. If the wireless provider fails to remove the abandoned facility within ninety days after such notice, the municipal corporation may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors or assigns.

§ 302. Permitting process for small wireless facilities. 1. Applicability. This section shall apply to the permitting of the collocation of small wireless facilities by a wireless provider in or outside the right of way as specified in subdivision three of this section and to the permitting of the installation, modification, and replacement of associated utility poles by a wireless provider inside the right of way.

2. General. Except as provided in this article, a municipal corporation may not prohibit, regulate, or charge for the collocation of small wireless facilities that may be permitted in this section.

3. Zoning. Small wireless facilities shall be classified as permitted uses and not subject to zoning review or approval if they are collocated in the right of way in any zone.

4. Permits. A municipal corporation may require an applicant to obtain one or more permits to collocate a small wireless facility or to install a new, modified or replacement utility pole associated with a small wireless facility as provided in subdivision four of section three hundred one of this article, provided such permits are of general applicability and do not apply exclusively to wireless facilities. A municipal corporation shall receive applications for, process, and issue such permits subject to the following requirements:

(a) a municipal corporation may not directly or indirectly require an applicant to perform services or provide goods unrelated to the permit, such as in-kind contributions to the municipal corporation including, but not limited to, reserving fiber, conduit, or pole space for the municipal corporation;

(b) an applicant shall not be required to provide more information to obtain a permit than communications service providers that are not wireless providers, provided that an applicant may be required to include construction and engineering drawings and information demonstrating compliance with the criteria in paragraph (g) of this subdivision;

(c) a municipal corporation may not require the collocation of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole; the use of specific pole types or configurations when installing new or replacement poles; or the underground placements of small wireless facilities that are or are designated in an application to be pole-mounted or ground-mounted;

(d) a municipal corporation may not limit the collocation of small wireless facilities by minimum horizontal separation distance requirements from existing small wireless facilities, utility poles, or other structures;

(e) a municipal corporation may require an applicant to include an attestation that the small wireless facilities will be operational for use by a wireless services provider within one year after the permit issuance date, unless the municipal corporation applicant agree to

extend this period or delay is caused by lack of commercial power or communications transport facilities to the site;

(f) within ten days of receipt of an application, a municipal corporation must determine and notify the applicant in writing whether the application is complete. If an application is deemed incomplete, the municipal corporation must specifically identify the missing information in writing. The processing deadline in paragraph (g) of this subdivision is tolled from the time the authority sends the notice of incompleteness to the time the applicant provides the missing information. Such processing deadline may also be tolled upon agreement of the applicant and the municipal corporation;

(g) municipal corporations shall process applications on a nondiscriminatory basis and such applications shall be deemed approved if the municipal corporation fails to approve or deny the application within sixty days of receipt of the application;

(h) a municipal corporation may deny a proposed collocation of a small wireless facility or installation, modification or replacement of a utility pole that meets the requirements of subdivision five of section three hundred one of this article only if the proposed application: (i) materially interferes with the safe operation of traffic control equipment; (ii) materially interferes with sight lines or clear zones for transportation or pedestrians; (iii) materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement; (iv) fails to comply with reasonable and nondiscriminatory horizontal spacing requirements of general application adopted by ordinance that concern the location of ground-mounted equipment and new utility poles. Such spacing requirements shall not prevent a wireless provider from serving any location; (v) designates the location of a new utility pole for the purpose of collocating a small wireless facility within seven feet in any direction of an electrical conductor, unless the wireless provider obtains the written consent of the power supplier that owns or manages the electrical conductor; (vi) fails to comply with applicable codes; or (vii) fails to comply with subdivision six, seven or eight of section three hundred one of this article;

(i) the municipal corporation must document the basis for a denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant on the day the authority denies an application. The applicant may cure the deficiencies identified by the municipal corporation and resubmit the application within thirty days of the denial without paying an additional application fee. The municipal corporation shall approve or deny the revised application within thirty days of resubmission and limit its review to the deficiencies cited in the denial. Any application not acted upon within thirty days of resubmission shall be deemed approved;

(j) an applicant seeking to collocate small wireless facilities within the jurisdiction of a single municipal corporation shall be allowed at the applicant's discretion to file a consolidated application for up to thirty small wireless facilities and receive a single permit for the collocation of multiple small wireless facilities; provided, however, the denial of one or more small wireless facilities in a consolidated application shall not delay processing of any other small wireless facilities in the same consolidated application. Solely for purposes of calculating the number of small wireless facilities in a consolidated application, a small wireless facility includes any utility pole on which such small wireless facility will be collocated;

(k) installation or collocation for which a permit is granted pursuant to this section shall be completed within one year after the permit issuance date unless the municipal corporation and the applicant agree to extend this period or a delay is caused by the lack of commercial power or communications facilities at the site. Approval of an application authorizes the applicant to: (i) undertake the installation or collocation; and (ii) subject to applicable relocation requirements and the applicant's right to terminate at any time, operate and maintain the small wireless facilities and any associated utility pole covered by the permit for a period of not less than ten years, which must be renewed for equivalent durations so long as they are in compliance with the criteria set forth in paragraph (g) of this subdivision;

(l) no municipal corporation may institute, either expressly or de facto, a moratorium on: (i) filing, receiving, or processing applications; or (ii) issuing permits or other approvals, if any, for the collocation of small wireless facilities or the installation, modification, 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 corpo-

ration 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 communications service providers for similar work and shall not include any revenue or contingency-based consultant's fees or expenses of any kind.

§ 304. Rates and fees. 1. Applicability. This section shall govern a municipal corporation's rates and fees for the placement of a small wireless facility or associated utility pole.

2. Permissible rates and fees. A municipal corporation may not require a wireless provider to pay any rates, fees, or compensation to the municipal corporation or other person other than what is expressly authorized by this article for the right to use or occupy a right of way, for collocation of small wireless facilities on utility poles in the right of way, or for the installation, maintenance, modification, operation and replacement of utility poles in the right of way.

3. Application fees. A municipal corporation may charge an application fee, so long as such fee is reasonable, nondiscriminatory, and recovers no more than an authority's direct costs for processing an application; provided however, no such fee shall exceed the following: (a) five hundred dollars for the first five small wireless facilities on the same application and one hundred dollars for each additional small wireless facility on the same application; and (b) one thousand dollars for the installation, modification or replacement of a utility pole together with the collocation of an associated small wireless facility that are permitted uses in accordance with the specifications set forth in subdivision four of section three hundred two of this article.

4. Rates. (a) Right of way: a municipal corporation may charge for the occupancy and use of the right of way, so long as such rate is reasonable, nondiscriminatory, and does not exceed the greater of the authority's direct costs or twenty dollars per year per small wireless facility.

(b) Municipal corporation pole collocation rate: a municipal corporation may charge for collocation of a small wireless facility on a municipal corporation pole, so long as such rate is reasonable, nondiscriminatory, and does not exceed the greater of authority's direct costs or two hundred fifty dollars per municipal corporation pole per year.

5. Rate or fee adjustment. Should a municipal corporation have an existing rate or fee to construct, install, mount, maintain, modify, operate, or replace a wireless facility or wireless support structure in the right of way, including collocation in such right of way, controlled by the municipal corporation and such rate or fee does not comply with

the requirements in this article, not later than the end of the next fiscal year immediately succeeding the effective date of this article, the municipal corporation shall implement a revised rate or fee to ensure compliance with this article for all affected persons.

§ 305. Cable services. This section applies to activities in the right of way only. Nothing in this article shall be interpreted to allow any entity to provide services regulated under 47 U.S.C. § 521 to 573 without compliance with all laws applicable to such providers, nor shall this article be interpreted to impose any new requirements on cable providers for the provision of such service in this state.

§ 306. Local authority. Subject to this article and applicable federal law, a municipal corporation may continue to exercise zoning, land use, planning and permitting authority within its territorial boundaries with respect to wireless support structures and utility poles, including the enforcement of applicable codes. A municipal corporation shall not have or exercise any jurisdiction or authority over the design, engineering, construction, installation, or operation of a small wireless facility located in an interior structure or upon the site of a campus, stadium, or athletic facility not owned or controlled by the municipal corporation, other than to require compliance with applicable codes. Nothing in this article authorizes the state or any political subdivision, including a municipal corporation, to require wireless facility deployment or to regulate wireless services.

§ 307. Investor-owned electric utility poles. This article does not apply to utility poles owned by an investor-owned utility, except as it concerns a wireless provider's access to the right of way and permits for the collocation of small wireless facilities on such utility poles.

§ 308. Implementation. 1. Adoption. A municipal corporation may adopt an ordinance that makes available to wireless providers rates, fees, and other terms that comply with this article. Subject to the other provisions of this section, in the absence of an ordinance or agreement that fully complies with this article and until such a compliant ordinance is adopted, if at all, a wireless provider may install and operate small wireless facilities and associated utility poles under the requirements of this article. A municipal corporation may not require a wireless provider to enter into an agreement to implement this article, but such agreements are permissible if voluntary and nondiscriminatory.

2. Ordinances and agreements. Ordinances and agreements implementing this article are public/private arrangements and are matters of legitimate and significant statewide concern.

3. Application. An agreement or ordinance that does not fully comply with this article shall apply only to small wireless facilities and associated utility poles that were operational before the effective date of this article, and shall be deemed invalid and unenforceable beginning on the one hundred eighty-first day after the effective date of this article unless amended to fully comply with this article. If an agreement or ordinance is invalid in accordance with this subdivision, small wireless facilities and associated utility poles that became operational before the effective date of this article, pursuant to such agreement or ordinance, may remain installed and be operated under the requirements of this article.

4. Invalid and unenforceable. An agreement or ordinance that applies to small wireless facilities and associated utility poles that become operational on or after the effective date of this article is invalid and unenforceable unless it fully complies with this article. In the absence of an ordinance or agreement that fully complies with this arti-

cle, a wireless provider may install and operate small wireless facilities and associated utility poles in the right of way under the requirements of this article.

§ 309. Dispute resolution. A court of competent jurisdiction shall have jurisdiction to determine all disputes arising under this article. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal corporation poles, the person owning or controlling the pole shall allow the collocating person to collocate on its poles at annual rates of no more than twenty dollars with rates to be trued up upon final resolution of the dispute.

§ 310. Indemnification, insurance, and bonding. A municipal corporation may adopt reasonable indemnification, insurance and bonding requirements related to small wireless facility and associated utility pole permits subject to the requirements of this article.

1. Indemnification. A municipal corporation shall not require a wireless provider to indemnify and hold the municipal corporation and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses or fees, except when a court of competent jurisdiction has found that the negligence of the wireless provider while installing, repairing, or maintaining caused the harm that created such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees.

2. Insurance. A municipal corporation authority may require a wireless provider to have in effect insurance coverage consistent with subdivision one of this section, so long as the municipal corporation imposes similar requirements on other right of way users and such requirements are reasonable and nondiscriminatory. (a) A municipal corporation may not require a wireless provider to obtain insurance naming the municipal corporation or its officers and employees an additional insured.

(b) A municipal corporation authority may require a wireless provider to furnish proof of insurance, if required, prior to the effective date of any permit issued for a small wireless facility.

3. Bonding. A municipal corporation may adopt bonding requirements for small wireless facilities if the municipal corporation imposes similar requirements in connection with permits issued for other right of way users.

(a) The purpose of such bonds shall be to:

(i) provide for the removal of abandoned or improperly maintained small wireless facilities, including those that a municipal corporation determines need to be removed to protect public health, safety, or welfare; (ii) restoration of the right of way in connection with removals under subdivision thirteen of section three hundred one of this article; or (iii) to recoup rates or fees that have not been paid by a wireless provider in over twelve months, so long as the wireless provider has received reasonable notice from the municipal corporation of any of the non-compliance listed above and an opportunity to cure.

(b) Bonding requirements may not exceed two hundred dollars per small wireless facility. For wireless providers with multiple small wireless facilities within the jurisdiction of a single municipal corporation, the total bond amount across all facilities may not exceed ten thousand dollars, which amount may be combined into one bond instrument.

§ 2. The highway law is amended by adding a new section 24 to read as follows:

24. Statewide master license agreement. The commissioner is hereby authorized to enter into a statewide master license agreement with a wireless provider for use and occupancy of the state right of way for

the purposes of installing communications facilities on utility or department owned poles or new wireless provider owned poles. The commissioner shall include elements in such an agreement he or she deems appropriate to maintain the safety and effective management of state roadways. Such statewide agreement may include a fee, not to exceed the greater of the department's direct costs, or an amount set forth in the agreement for use and occupancy of the right of way, per small wireless facility as that term is defined in subdivision twenty-four of section three hundred of the general municipal law. Nothing in this section shall be deemed to prohibit the department from collecting any other fee it has established for any other permit the department issues or any other fee the department assesses any individual for any activity in the department's normal course of business.

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

PART CC

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 of part F as amended by section 1 of part M of chapter 39 of the laws of 2019, and section 3 of part F 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 Projects	New York State Olympic Regional Development Authority
7. Olympic Training Center	New York State Olympic Regional Development Authority
8. Olympic Arena and Convention Center Complex	New York State Olympic Regional Development Authority
9. State Fair Revitalization Projects	Office of General Services
10. State Police Forensic Laboratory	Office of General Services

Notwithstanding any provision of law to the contrary, all rights or benefits, including terms and conditions of employment, and protection of civil service and collective bargaining status of all existing employees of authorized state entities [~~solely in connection with the authorized projects listed above,~~] shall be preserved and protected. Nothing in this section shall result in the: (1) displacement of any currently employed worker or loss of position (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits) or result in the impairment of existing collective bargaining agreements; [~~and~~] (2) transfer of existing duties and functions related to maintenance and operations currently performed by existing employees of authorized state entities to a contracting entity**; or (3) transfer of future duties and functions ordinarily performed by employees of authorized state entities to the contracting entity**. Nothing contained herein shall be construed to affect (A) the existing rights of employees pursuant to an existing collective bargaining agreement, and (B) the existing representational relationships among employee organizations or the bargaining relationships between the employer and an employee organization.

If otherwise applicable, authorized projects undertaken by the authorized state entities listed above solely in connection with the provisions of 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.

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, [~~section~~] **sections** 359**, 1678, 1680, 1680-a and 2879-a** of the public authorities law, [~~section~~] **sections 376, 407-a, 6281 and** 7210 of the education law, **sections 8 and 9 of the public buildings law, section 11 of chapter 795 of the laws of 1967, section 11 of section 1 of chapter 174 of the laws of 1968 as amended, section 8 and 9 of section 1 of chapter 359 of the laws of 1968 as amended, section 29 of chapter 337 of the laws of 1972, section 21 of chapter 464 of the laws of 1972, section 103 of the general municipal law,** and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts, in consultation with relevant local labor organizations and construction industry, for capital projects **located in the state** related to [~~the state's~~] physical infrastructure, including, but not limited to, [~~the state's~~] highways, bridges, **buildings and appurtenant structures,** dams, flood control projects, canals, and parks, including, but not limited to, to repair damage caused by natural disaster, to correct health and safety defects, to comply with federal and state laws, standards, and regulations, to extend the useful life of or replace [~~the state's~~] highways, bridges, **buildings and appurtenant structures,** dams, flood control projects, canals, and parks or to improve or add to [~~the state's~~] highways, bridges, **buildings and appurtenant structures,** dams, flood control projects, canals, and parks; provided that for the contracts executed by the department of transportation, the office of parks, recreation and historic preservation, or the department of environmental conservation, the total cost of each such project shall not be less than ten million dollars ($10,000,000).

§ 2. The opening paragraph and subdivision (a) of section 4 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act, as amended by section 4 of part RRR of chapter 59 of the laws of 2017, are amended to read as follows:

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

(a) Step one. Generation of a list of entities that have demonstrated the general capability to perform the design-build contract. Such list shall consist of a specified number of entities, as determined by an authorized state entity, and shall be generated based upon the authorized state entity's review of responses to a publicly advertised request for qualifications. The authorized state entity's request for qualifications shall include a general description of the project, the maximum number of entities to be included on the list, the selection criteria to be used and the relative weight of each criteria in generating the list. Such selection criteria shall include the qualifications and experience of the design and construction team, organization, demonstrated responsibility, ability of the team or of a member or members of the team to comply with applicable requirements, including the provisions of articles 145, 147 and 148 of the education law, past record of compliance with the labor law, and such other qualifications the authorized state entity deems appropriate which may include but are not limited to project understanding, financial capability and record of past performance. The authorized state entity shall evaluate and rate all entities responding to the request for qualifications. Based upon such ratings,

the authorized state entity shall list the entities that shall receive a request for proposals in accordance with subdivision (b) of this section. To the extent consistent with applicable federal law, the authorized state entity shall consider, when awarding any contract pursuant to this section, the participation of: (i) firms certified pursuant to article 15-A of the executive law as minority or women-owned businesses and the ability of other businesses under consideration to work with minority and women-owned businesses so as to promote and assist participation by such businesses; [~~and~~] (ii) small business concerns identified pursuant to subdivision (b) of section 139-g of the state finance law**; and (iii) firms certified pursuant to article 17-B of the executive law as service-disabled veteran-owned businesses and the ability of other businesses under consideration to work with service-disabled veteran-owned businesses so as to promote and assist participation by such businesses**.

§ 3. Sections 7 and 8 of part F of chapter 60 of the laws of 2015 constituting the infrastructure investment act are amended to read as follows:

§ 7. If otherwise applicable, capital projects undertaken by the authorized state entity pursuant to this act shall be subject to section 135 of the state finance law**, section 101 of the general municipal law** and section 222 of the labor law**; provided, however, that an authorized 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.

PART EE

Section 1. Subdivision 3 of section 16-m of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as amended by section 1 of part Z of chapter 58 of the laws of 2019, is amended to read as follows:

3. The provisions of this section shall expire, notwithstanding any inconsistent provision of subdivision 4 of section 469 of chapter 309 of the laws of 1996 or of any other law, on July 1, [~~2020~~] **2021**.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2020.

PART FF

Section 1. Section 2 of chapter 393 of the laws of 1994, amending the New York state urban development corporation act, relating to the powers of the New York state urban development corporation to make loans, as amended by section 1 of part Y of chapter 58 of the laws of 2019, is amended to read as follows:

§ 2. This act shall take effect immediately provided, however, that section one of this act shall expire on July 1, [~~2020~~] **2021**, at which time the provisions of subdivision 26 of section 5 of the New York state urban development corporation act shall be deemed repealed; provided, however, that neither the expiration nor the repeal of such subdivision as provided for herein shall be deemed to affect or impair in any manner any loan made pursuant to the authority of such subdivision prior to such expiration and repeal.

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

PART GG

Section 1. Paragraph (a) of subdivision 11 of section 400 of the economic development law, as amended by section 3 of part QQ of chapter 60 of the laws of 2016, is amended to read as follows:

(a) a correctional facility, as defined in paragraph (a) of subdivision four of section two of the correction law, that has been selected

by the governor of the state of New York for closure after April first, two thousand eleven[~~ but no later than March thirty-first, two thousand twelve~~]; or

§ 2. This act shall take effect immediately; provided, however, that the amendments to section 400 of the economic development law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith.

PART HH

Section 1. Expenditures of moneys by the New York state energy research and development authority for services and expenses of the energy research, development and demonstration program, including grants, the energy policy and planning program, the zero emissions vehicle and electric vehicle rebate program, and the Fuel NY program shall be subject to the provisions of this section. Notwithstanding the provisions of subdivision 4-a of section 18-a of the public service law, all moneys committed or expended in an amount not to exceed $22,700,000 shall be reimbursed by assessment against gas corporations, as defined in subdivision 11 of section 2 of the public service law and electric corporations as defined in subdivision 13 of section 2 of the public service law, where such gas corporations and electric corporations have gross revenues from intrastate utility operations in excess of $500,000 in the preceding calendar year, and the total amount which may be charged to any gas corporation and any electric corporation shall not exceed one cent per one thousand cubic feet of gas sold and .010 cent per kilowatt-hour of electricity sold by such corporations in their intrastate utility operations in calendar year 2018. Such amounts shall be excluded from the general assessment provisions of subdivision 2 of section 18-a of the public service law. The chair of the public service commission shall bill such gas and/or electric corporations for such amounts on or before August 10, 2020 and such amounts shall be paid to the New York state energy research and development authority on or before September 10, 2020. Upon receipt, the New York state energy research and development authority shall deposit such funds in the energy research and development operating fund established pursuant to section 1859 of the public authorities law. The New York state energy research and development authority is authorized and directed to: (1) transfer up to $4 million to the state general fund for climate change related services and expenses of the department of environmental conservation, $150,000 to the state general fund for services and expenses of the department of agriculture and markets, and $825,000 to the University of Rochester laboratory for laser energetics from the funds received; and (2) commencing in 2016, provide to the chair of the public service commission and the director of the budget and the chairs and secretaries of the legislative fiscal committees, on or before August first of each year, an itemized record, certified by the president and chief executive officer of the authority, or his or her designee, detailing any and all expenditures and commitments ascribable to moneys received as a result of this assessment by the chair of the department of public service pursuant to section 18-a of the public service law. This itemized record shall include an itemized breakdown of the programs being funded by this section and the amount committed to each program. The authority shall not commit for any expenditure, any moneys derived from the assessment provided for in this section, until the chair of such authority shall have submitted, and the director of the budget shall have

approved, a comprehensive financial plan encompassing all moneys available to and all anticipated commitments and expenditures by such authority from any source for the operations of such authority. Copies of the approved comprehensive financial plan shall be immediately submitted by the chair to the chairs and secretaries of the legislative fiscal committees. Any such amount not committed by such authority to contracts or contracts to be awarded or otherwise expended by the authority during the fiscal year shall be refunded by such authority on a pro-rata basis to such gas and/or electric corporations, in a manner to be determined by the department of public service, and any refund amounts must be explicitly lined out in the itemized record described above.

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

PART II

Section 1. The closing paragraph of subdivision 1 of section 161 of the labor law, as added by chapter 105 of the laws of 2019, is amended to read as follows:

Every person employed as a farm laborer shall be allowed at least twenty-four consecutive hours of rest in each and every calendar week. This requirement shall not apply to the **employer or** parent, child, spouse or other member of the employer's immediate family. **The term "employer" shall have the same meaning as defined in paragraphs (a) and (b) of subdivision two of section seven hundred one of this chapter. The term "immediate family member" shall mean family related to the third degree of consanguinity or affinity.** Twenty-four consecutive hours spent at rest because of circumstances, such as weather or crop conditions, shall be deemed to constitute the rest required by this paragraph. No provision of this paragraph shall prohibit a farm laborer from voluntarily agreeing to work on such day of rest required by this paragraph, provided that the farm laborer is compensated at an overtime rate which is at least one and one-half times the laborer's regular rate of pay for all hours worked on such day of rest. The term "farm labor" **as used in this section and sections one hundred sixty-two and one hundred sixty-three-a of this article** shall include all services performed in agricultural employment in connection with cultivating the soil, or in connection with raising or harvesting of agricultural commodities, including the raising, shearing, caring for and management of livestock, poultry or dairy. The day of rest authorized under this subdivision should, whenever possible, coincide with the traditional day reserved by the farm laborer for religious worship.

§ 2. Section 163-a of the labor law, as added by chapter 105 of the laws of 2019, is amended to read as follows:

§ 163-a. Farm laborers. No person or corporation operating a farm shall require any [~~employee~~] **farm laborer** to work more than sixty hours in any calendar week; provided, however, that any overtime work performed by a farm laborer shall be at a rate which is at least one and one-half times the laborer's regular rate of pay. No wage order subject to the provisions of this chapter shall be applicable to a farm laborer other than a wage order established pursuant to section six hundred seventy-four or six hundred seventy-four-a of this chapter.

§ 3. Paragraph (c) of subdivision 3 of section 701 of the labor law, as added by chapter 105 of the laws of 2019, is amended to read as follows:

(c) The term "employee" shall also include farm laborers. "Farm laborers" shall mean any individual engaged or permitted by an employer to work on a farm, except the parent, spouse, child, or other member of the employer's immediate family. **The term "immediate family member" shall mean family related to the third degree of consanguinity or affinity.**

§ 4. This act shall take effect immediately.

PART JJ

Section 1. Section 103 of the general municipal law is amended by adding a new subdivision 9-b to read as follows:

9-b. Notwithstanding the foregoing provisions of this section to the contrary, a board of education, on behalf of its school district, or a board of cooperative educational services, that purchases goods and services for the federal child nutrition programs may use its own procurement procedures which adhere to applicable local laws and regulations, provided that procurements made with nonprofit school food account funds adhere to the standards set forth in the national school lunch program (7 CFR 210), school breakfast program (7 CFR 220), summer food service program (7 CFR 225), and in 2 CFR part 200, subpart D, as applicable.

§ 2. This act shall take effect immediately.

PART KK

Section 1. Subdivision 4 of section 1285-j of the public authorities law is amended by adding a new closing paragraph to read as follows:

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the hardship criteria established pursuant to section 17-1909 of the environmental conservation law, may have a final maturity up to forty years following completion of the eligible project.

§ 2. Subdivision 4 of section 1285-m of the public authorities law is amended by adding a new closing paragraph to read as follows:

Subject to any applicable provisions of federal or state law, any financial assistance at an interest rate of zero percent provided to municipalities that meet the hardship criteria established pursuant to title four of article eleven of the public health law, may have a final maturity up to forty years following completion of the eligible project.

§ 3. This act shall take effect immediately.

PART LL

Section 1. The banking law is amended by adding a new article 7 to read as follows:

ARTICLE VII

LICENSED CONSUMER DEBT COLLECTORS

Section 295. Definitions.
296. License required; entities exempt.
297. Application for license; fees.
298. Surety bond required.
299. Examination; books and records; reports.
300. Prohibited acts.
301. Regulations; minimum standards.
302. Application for acquisition of control of a consumer debt collector.

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 or of debt buying, or who regularly collects or attempts to collect, directly or indirectly, consumer debts owed or due to another person. The term includes any creditor who, in the process of collecting its own consumer debts, and uses any name other than its own which would reasonably indicate that a third person is collecting or attempting to collect a consumer debt.

6. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, except a commercial contract for goods or non-management services, or otherwise; but no person shall be deemed to control another person solely by reason of his or her being an officer or director of such other person. Control shall be presumed to exist if any person directly or indirectly owns, controls or holds with the power to vote ten percent or more of the voting securities of any other person.

7. "Creditor" means any person to whom a consumer debt is owed.

8. "Licensee" means a consumer debt collector that possesses one or more licenses pursuant to this article.

9. "Person" means a natural person or any entity, including but not limited to any partnership, corporation, branch, agency, association, organization, any similar entity or any combination of the foregoing acting in concert.

§ 296. License required; entities exempt. 1. No person shall act within this state as a consumer debt collector, directly or indirectly, without first obtaining a license from the superintendent. A consumer debt collector is acting within this state if it is seeking to collect from any consumer debtor that resides within this state.

2. No creditor may utilize the services of a consumer debt collector to collect from a consumer debtor that resides within this state unless the consumer debt collector is licensed by the superintendent.

3. The requirements of subdivisions one and two of this section shall not apply to:

(a) an individual employed by a licensed consumer debt collector when attempting to collect on behalf of such consumer debt collector;

(b) a person who receives funds in escrow for subsequent distribution to others, including, but not limited to, a real estate broker or lender holding funds of borrowers for payment of taxes or insurance;

(c) any public officer acting in their official capacity;

(d) a person who is principally engaged in the business of servicing loans or accounts which are not delinquent for the owners thereof when in addition to requesting payment from delinquent consumer debtors, the person provides other services including receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent;

(e) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

(f) any non-profit organization which, at the request of a consumer debtor, performs bona fide consumer credit counseling and assists customers in the liquidation of their debts by receiving payments from such consumer debtors and distributing such amounts to creditors;

(g) any national bank, federal reserve bank, or agency or division of the federal government, or any person, partnership, association, corporation or other organization doing business under or pursuant to the provisions of this chapter, or any insurer doing business under a license issued under the insurance law; and

(h) a subsidiary or affiliate of any national bank, federal reserve bank, or agency or division of the federal government, or any person, partnership, association, corporation or other organization doing business under or pursuant to the provisions of this chapter or any insurer doing business under a license issued under the insurance law, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent debt secured by real property.

§ 297. Application for license; fees. 1. (a) An application for a license under this article shall be in writing, under oath, and in the form prescribed by the superintendent and shall contain such information as the superintendent may require.

(b) The superintendent may reject an application for a license or an application for the renewal of a license if he or she is not satisfied that the financial responsibility, character, reputation, integrity and general fitness of the applicant and of the owners, partners or members thereof, if the applicant be a partnership or association, and of the officers and directors, if the applicant be a corporation, are such as to command the confidence of the public and to warrant the belief that the business for which the application for a license is filed will be operated lawfully, honestly and fairly.

(c) In addition to any other information the superintendent may require the application to also include a description of the activities of the applicant, in such detail and for such periods, as the superintendent may establish.

2. At the time of making the application for a license, the applicant shall pay to the superintendent a fee as prescribed pursuant to section eighteen-a of this chapter for each proposed location, for investigating the application.

3. In addition to any other fee imposed on an applicant or licensee, every licensee shall pay to the superintendent the sums provided to be paid under the provisions of section two hundred six of the financial services law.

4. The license shall be for a period of one year as of the first of September each year, or such other date as determined by the superintendent by regulation.

5. Each license shall plainly state the name of the licensee and the city or town with the name of the street and number, if any, of the

place where the business is to be carried on. A licensee shall not change the location where the business of the licensee is to be carried on without first obtaining the prior approval of the superintendent. A request for relocation shall be in writing setting forth the reason for the request, and shall be accompanied by a relocation investigation fee to be determined pursuant to section eighteen-a of this chapter.

6. The business shall at all times be conducted in the name of the licensee as it appears on the license.

7. The license shall not be transferable nor assignable.

8. The superintendent may participate in a multi-state licensing system for the sharing of regulatory information and for the licensing and application, by electronic or other means, of entities engaged in the business of debt collection. The superintendent may establish requirements for participation by an applicant in a multi-state licensing system which may vary from the provisions of this section. The superintendent may require a background investigation of each applicant for a consumer debt collector license by means of fingerprint, which shall be submitted by all applicants simultaneously with an application and which the superintendent may submit to the division of criminal justice services and the federal bureau of investigations for state and national criminal history record checks. If the applicant is a partnership, association, corporation or other form of business organization, the superintendent may require a background investigation for each member, director and principal officer of the applicant and any individual acting as a manager of an office location. The applicant shall pay directly to the multi-state licensing system any additional fees relating to participation in the multi-state licensing system.

§ 298. Surety bond required. 1. A consumer debt collector shall be required to file and maintain in force a surety bond, issued by a domestic insurer, as a condition precedent to the issuance or renewal and maintenance of a license under this article. The bond shall be for the benefit of creditors who obtain a judgment from a court of competent jurisdiction based on the failure of the consumer debt collector to remit money collected on account and owed to the creditor. The bond shall also be for the benefit of consumer debtors who obtain judgment from a court of competent jurisdiction based on a violation by the consumer debt collector of the federal Fair Debt Collection Practice Act or any other New York law or federal law which is applicable to the consumer debt collector. The bond shall be in a form prescribed by the superintendent in the sum of twenty-five thousand dollars. The bond shall be continuous in form and run concurrently with the original and each renewal license period unless terminated by the insurance company. An insurance company may terminate a bond and avoid further liability by filing a notice of termination with the department sixty days prior to the termination and at the same time sending the same notice to the consumer debt collector.

2. A license shall be automatically cancelled on the termination date of the bond unless a new bond is filed with the department to become effective at the termination date of the prior bond.

3. If a license has been cancelled under this section, the consumer debt collector must file a new application to obtain a license and will be considered a new applicant if it obtains a new bond.

4. For the purposes of this section the term "domestic insurer" shall have the same meaning as given in section one hundred seven of the insurance law. If a bond required by this section is not reasonably available from a domestic insurer the superintendent may, in his or her

discretion, permit, on a case by case basis or by order, consumer debt collectors to obtain the bond required by this section from such other entities licensed by the department as the superintendent deems appropriate.

§ 299. Examination; books and records; reports. 1. For the purpose of enforcing the provisions of this article and for ensuring the safe and sound operation of the consumer debt collector business, the superintendent may at any time, and as often as may be determined, either personally or by a person duly appointed by the superintendent, investigate the loans and business and examine the books, accounts, records, and files used therein of every licensee.

2. The superintendent and duly designated representatives shall have free access to the offices and place of business, books, accounts, papers, records, audio recordings, files, safes and vaults of all such licensees wherever located. The superintendent shall have authority to require the attendance of and to examine under oath all persons whomsoever whose testimony may be required relative to such loans or such business.

3. The superintendent may also address to a licensee, or the officers thereof, any inquiry in relation to its transactions, operations, or conditions, or any matter connected therewith. Every person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of a corporation, as the superintendent shall designate, and affirmed by them as true under the penalties of perjury.

4. Each licensee shall keep and use in its business such books, accounts, and records as will enable the superintendent to determine whether such licensee is complying with the provisions of this article and with the rules and regulations promulgated hereunder. Every licensee shall preserve such books, accounts, and records, for at least five years after making the final entry regarding a consumer debt. Preservation of photographic reproduction thereof or records in photographic form, including an optical disk storage system and the use of electronic data processing equipment that provides comparable records to those otherwise required and which are available for examination upon request shall constitute compliance with the requirements of this section.

5. Each licensee shall annually, on or before April first, file a report with the superintendent giving such information as the superintendent may require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee within the state under authority of this article. Such report shall be subscribed and affirmed as true by the licensee under the penalties of perjury and shall be in the form prescribed by the superintendent.

6. In addition to annual reports, the superintendent may require such additional regular or special reports as may be deemed necessary to the proper supervision of licensees under this article. Such additional reports shall be in the form prescribed by the superintendent and shall be subscribed and affirmed as true under the penalties of perjury.

7. The expenses of every examination of the affairs of a consumer debt collector subject to this section shall be borne and paid by the licensee.

§ 300. Prohibited acts. 1. No consumer debt collector that is required to be licensed under this article shall engage in unfair, unconsciona-

ble, deceptive, false, misleading, abusive, or unlawful acts or practices.

2. Without limiting the general application of the prohibited acts in subdivision one of this section, it shall be unlawful for any consumer debt collector to:

(a) engage in any act or practice which would be a violation of the federal Fair Debt Collection Practice Act, any other New York law or federal law which is applicable to the consumer debt collector, or any act or practice which would be prohibited under section six hundred one of the general business law if the consumer debt collector was a principal creditor;

(b) engage or retain the services of any person who, being required to be licensed under this article, does not have a valid license issued by the department; or

(c) cause any act to be done which violates this section.

3. No consumer debt collector licensed under this article shall:

(a) without the prior written and revocable consent of the consumer debtor given directly to the debt collector or the express permission of a court of competent jurisdiction, engage in any communication with a consumer debtor in connection with the collection of any debts:

(i) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer debtor. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer debtor is after eight o'clock antemeridian and before eight o'clock postmeridian, local time at the consumer debtor's location;

(ii) if the debt collector knows the consumer debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer debtor;

(iii) at the consumer debtor's place of employment;

(iv) more than two times in a seven day period;

(v) by voicemail on to any telephone that is known or which reasonably should be known may be received by someone other than the consumer debtor; or

(vi) by means of electronic communications, including but not limited to SMS text message, messaging applications on mobile telephones, electronic mail, Facebook, and other forms of social media.

(b) communicate with a consumer debtor by postcard;

(c) continue communication with a consumer debtor after the consumer debt collector's first communication if the debt collector fails to send the consumer debtor a notice in writing within five days of that first communication, which such notice shall be promulgated by the superintendent; or

(d) continue to communicate with a consumer debtor about a consumer debt that the consumer debtor disputes without providing the consumer debtor with documents that verify the disputed consumer debt.

§ 301. Regulations; minimum standards. The superintendent may promulgate rules and regulations giving effect to the provisions of this article. Such rules and regulations may include but shall not be limited to the establishment of minimum standards to be observed by consumer debt collectors acting within this state and further defining acts and practices which are unfair, unconscionable, deceptive, false, misleading, abusive, or unlawful under section three hundred of this article.

§ 302. Application for acquisition of control of a consumer debt collector. 1. No person shall acquire control of a licensee under this article without the prior approval of the superintendent.

2. Any person desirous of acquiring such control shall make written application to the superintendent, such application shall be in such form and shall contain such information, including the information required under section two hundred ninety-seven of this article, as the superintendent may require and such person, at the time of making such application if not licensed, shall pay to the superintendent an investigation fee as prescribed pursuant to section eighteen-a of this chapter.

3. In determining whether to approve or deny an application under this section, the superintendent shall consider:

(a) whether the financial responsibility, experience, character, and general fitness of the person seeking to acquire control, and of the members thereof if such person be a partnership or association, and of the officers, directors and controlling stockholders thereof if such person be a corporation, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this article;

(b) the effect the acquisition may have on competition; and

(c) whether the acquisition may be hazardous or prejudicial to consumer debtors or consumer creditors in this state.

4. If no such application has been made prior to the acquisition of control, the license for each place of business maintained and operated by the licensee shall, at the discretion of the superintendent, become null and void and each such license shall be surrendered to the superintendent.

§ 303. Suspension and revocation. In addition to any other power provided by law, the superintendent may suspend or revoke the license of a consumer debt collector, if after notice and an opportunity to be heard, the superintendent finds that a consumer debt collector has:

1. committed any fraud, engaged in any dishonest activities or made any misrepresentation;

2. violated any provisions of this chapter or any regulation issued pursuant thereto, or has violated any other law in the course of its or his dealings as a consumer debt collector;

3. made a false statement or material omission in the application for a license under this article or failed to give a true reply to a question in such application; or

4. demonstrated incompetency or untrustworthiness to act as a consumer debt collector.

§ 304. Bad actors. 1. In addition to any other power provided by law, the superintendent may require any licensee to remove any director, officer or employee or to refrain from engaging or retaining any independent contractor or service provider if such director, officer, employee, independent contractor or service provider has themselves had a license under this chapter suspended or revoked, or has caused the licensee to violate any provision of this chapter or regulations promulgated thereunder.

2. No person that is the subject of an order under this section removing them as a director, officer or employee or preventing a licensee from engaging or retaining them as an independent contractor or service provider, shall become engaged with any licensee without obtaining the prior written approval of the superintendent. Nor shall such person fail to disclose that it is the subject of an order under this section to any

licensee for which it is acting or seeking to act as a director, officer, employee, independent contractor or service provider.

§ 2. Subdivision 10 of section 36 of the banking law, as amended by section 2 of part L of chapter 58 of the laws of 2019, is amended to read as follows:

10. All reports of examinations and investigations, correspondence and memoranda concerning or arising out of such examination and investigations, including any duly authenticated copy or copies thereof in the possession of any banking organization, bank holding company or any subsidiary thereof (as such terms "bank holding company" and "subsidiary" are defined in article three-A of this chapter), any corporation or any other entity affiliated with a banking organization within the meaning of subdivision six of this section and any non-banking subsidiary of a corporation or any other entity which is an affiliate of a banking organization within the meaning of subdivision six-a of this section, foreign banking corporation, licensed lender, licensed casher of checks, licensed mortgage banker, registered mortgage broker, licensed mortgage loan originator, licensed sales finance company, registered mortgage loan servicer, licensed student loan servicer, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, **licensed consumer debt collector,** any other person or entity subject to supervision under this chapter**, or the financial services law or the insurance law**, or the department, shall be confidential communications, shall not be subject to subpoena and shall not be made public unless, in the judgment of the superintendent, the ends of justice and the public advantage will be subserved by the publication thereof, in which event the superintendent may publish or authorize the publication of a copy of any such report or any part thereof in such manner as may be deemed proper or unless such laws specifically authorize such disclosure. For the purposes of this subdivision, "reports of examinations and investigations, and any correspondence and memoranda concerning or arising out of such examinations and investigations", includes any such materials of a bank, insurance or securities regulatory agency or any unit of the federal government or that of this state any other state or that of any foreign government which are considered confidential by such agency or unit and which are in the possession of the department or which are otherwise confidential materials that have been shared by the department with any such agency or unit and are in the possession of such agency or unit.

§ 3. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by section 4 of part L of chapter 58 of the laws of 2019, is amended to read as follows:

(a) Without limiting any power granted to the superintendent under any other provision of this chapter, the superintendent may, in a proceeding after notice and a hearing, require any safe deposit company, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed mortgage banker, licensed student loan servicer, registered mortgage broker, licensed mortgage loan originator, registered mortgage loan servicer**, licensed consumer debt collector** or licensed budget planner to pay to the people of this state a penalty for any violation of this chapter, any regulation promulgated thereunder, any final or temporary order issued pursuant to section thirty-nine of this article, any condition imposed in writing by the superintendent in connection with the grant of any application or request, or any written agreement entered into with the superintendent.

§ 4. The opening paragraph of subdivision (a) of section 3218 of the civil practice law and rules, as amended by chapter 311 of the laws of 1963, is amended to read as follows:

Affidavit of defendant. Except as provided in section thirty-two hundred one **of this article and subdivision (e) of this section**, a judgment by confession may be entered, without an action, either for money due or to become due, or to secure the plaintiff against a contingent liability in behalf of the defendant, or both, upon an affidavit executed by the defendant;

§ 5. Section 3218 of the civil practice law and rules is amended by adding a new subdivision (e) to read as follows:

(e) Prohibition on certain judgments by confession. No judgment of confession may be entered on: 1. any amount due from one or more individuals for personal, family, household, consumer, investment or non-business purposes;

2. any amount under two hundred fifty thousand dollars due from any person for any purpose; or

3. any amount due from any person that either: (i) is currently not a resident of the state, (ii) was not a resident of the state at the time the affidavit authorizing the entry of the judgment of confession was executed, or (iii) if not a natural person, does not have a place of business in the state or did not have a place of business in the state at the time the affidavit authorizing the entry of the judgment of confession was executed.

§ 6. This act shall take effect immediately, provided, however that sections one, two and three of this act shall take effect on October 1, 2020. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART MM

Section 1. The financial services law is amended by adding a new article 7 to read as follows:

ARTICLE 7

STUDENT DEBT RELIEF CONSULTANTS

Section 701. Definitions.
702. Prohibitions.
703. Disclosure requirements.
704. Student debt consulting contracts.
705. Penalties and other provisions.
706. Rules and regulations.

§ 701. Definitions. (a) The term "advertisement" shall include, but is not limited to, all forms of marketing, and solicitation of information related to securing or obtaining a student debt consulting contract or services. Further, it shall include any and all commonly recognized forms of media marketing via television, radio, print media, all forms of electronic communication via the internet, and all prepared sales presentations given in person or over the internet to the general public.

(b) "Borrower" means any resident of this state who has received a student loan or agreed in writing to pay a student loan or any person who shares a legal obligation with such resident for repaying a student loan.

(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, credit union or insurance company organized under the laws of this state, another state or the United States, or a subsidiary or affiliate of such entity or a foreign banking corporation licensed by the superintendent of financial services or the comptroller of the currency;

(iii) a bona fide not-for-profit organization that offers counseling or advice to borrowers;

(iv) an attorney admitted to practice in the state of New York when the attorney is providing student debt consulting services to a borrower free of charge;

(v) an institution of higher education wherein the borrower is or was enrolled; or

(vi) such other persons as the superintendent prescribes or interprets by rule.

(g) "Student debt consulting services" means services that a student debt consultant provides to a borrower that the consultant represents will help to achieve any of the following:

(i) stop, enjoin, delay, void, set aside, annul, stay or postpone a default, bankruptcy, tax offset, or garnishment proceeding;

(ii) obtain a forbearance, deferment, or other relief that temporarily halts repayment of a student loan;

(iii) assist the borrower with preparing or filing documents related to student loan repayment;

(iv) advise the borrower which student loan repayment plan or forgiveness program to consider;

(v) enroll the borrower in any student loan repayment, forgiveness, discharge, or consolidation program;

(vi) assist the borrower in re-establishing eligibility for federal student financial assistance;

(vii) assist the borrower in removing a student loan from default; or

(viii) educate the borrower about student loan repayment.

§ 702. Prohibitions. A student debt consultant is prohibited from doing the following:

(a) performing student debt consulting services without a written, fully executed contract with a borrower;

(b) charging for or accepting any payment for student debt consulting services before the full completion of all such services, including a payment to be placed in escrow or any other account pending the completion of such services;

(c) taking a power of attorney from a borrower;

(d) retaining any original loan document or other original document related to a borrower's student loan;

(e) requesting that a borrower provide his or her FSA ID to the consultant, or accepting a borrower's FSA ID;

(f) stating or implying that a borrower will not be able to obtain relief on their own;

(g) misrepresenting, expressly or by implication, that:

(i) the consultant is a part of, affiliated with, or endorsed or sponsored by the government, government loan programs, the United States department of education, or borrowers' student loan servicers; or

(ii) some or all of a borrower's payments to the consultant will be applied towards the borrower's student loans;

(h) inducing or attempting to induce a student debtor to enter a contract that does not fully comply with the provisions of this article; or

(i) engaging in any unfair, deceptive, or abusive act or practice.

§ 703. Disclosure requirements. (a) A student debt consultant shall clearly and conspicuously disclose in all advertisements:

(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).

_____ (Name of consultant) (the "consultant") or anyone working for the consultant may not take any money from you or ask you for money until the consultant has completely finished doing everything this contract says the consultant will do.

You should consider contacting your student loan servicer before signing any legal document concerning your student loan. In addition, you may want to visit the New York State Department of Financial Services' student lending resource center at www.dfs.ny.gov/studentprotection. The law requires that this contract contain the entire agreement between you and the provider. You should not rely upon any other written or oral agreement or promise."

The provider shall accurately enter the date on which the right to cancel ends.

(b) (1) The borrower has the right to cancel, without any penalty or obligation, any contract with a consultant until midnight of the fifth business day following the day on which the consultant and the borrower sign a consulting contract. Cancellation occurs when the borrower, or a representative of the borrower, either delivers written notice of cancellation in person to the address specified in the consulting contract or sends a written communication by facsimile, by United States mail or by an established commercial letter delivery service. A dated proof of facsimile delivery or proof of mailing creates a presumption that the notice of cancellation has been delivered on the date the facsimile is sent or the notice is deposited in the mail or with the delivery service. Cancellation of the contract shall release the borrower from all obligations to pay fees or any other compensation to the consultant

(2) The contract shall be accompanied by two copies of a form, captioned "notice of cancellation" in at least twelve-point bold type. This form shall be attached to the contract, shall be easily detachable, and shall contain the following statement written in the same language as used in the contract, and the contractor shall insert accurate information as to the date on which the right to cancel ends and the contractor's contact information:

"NOTICE OF CANCELLATION

Note: You may cancel this contract, without any penalty or obligation, at any time before midnight of _____ (Enter date)

To cancel this contract, sign and date both copies of this cancellation notice and personally deliver one copy or send it by facsimile, United States mail, or an established commercial letter delivery service, indicating cancellation to the Consultant at one of the following:

Name of Consultant _____

Street Address _____

City, State, Zip _____

Facsimile: _____

I hereby cancel this transaction.

Name of Borrower: _____

Signature of Borrower: _____

Date: _____"

(3) Within ten days following receipt of a notice of cancellation given in accordance with this subdivision, the consultant shall return any original contract and any other documents signed by or provided by the borrower. Cancellation shall release the borrower of all obligations to pay any fees or compensation to the consultant.

§ 705. Penalties and other provisions. (a) If the superintendent finds, after notice and hearing, that a consultant has violated any provision of this article, the superintendent may: (1) make null and void any agreement between the borrower and the consultant; and (2) impose a civil penalty of not more than ten thousand dollars for each violation.

(b) If the consultant violates any provision of this article and the borrower suffers damage because of the violation, the borrower may recover actual and consequential damages and costs from the consultant in an action based on this article. If the consultant intentionally or recklessly violates any provision of this article, the court may award the borrower treble damages, attorneys' fees and costs.

(c) Any provision of a student debt consulting contract that attempts or purports to limit the liability of the consultant under this article shall be null and void. Inclusion of such provision shall at the option of the borrower render the contract void. Any provision in a contract which attempts or purports to require arbitration of any dispute arising under this article shall be void at the option of the borrower. Any waiver of the provisions of this article shall be void and unenforceable as contrary to public policy.

(d) The provisions of this article are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law.

§ 706. Rules and regulations. In addition to such powers as may otherwise be prescribed by this chapter, the superintendent is hereby authorized and empowered to promulgate such rules and regulations as may in the judgment of the superintendent be consistent with the purposes of this article, or appropriate for the effective administration of this article.

§ 2. Section 712 of the banking law is amended by adding a new subdivision 3 to read as follows:

3. The department may also require the submission of the fingerprints of the applicant, which may be submitted to the division of criminal justice services and the federal bureau of investigation for state and national criminal history record checks.

§ 3. This act shall take effect immediately, provided, however, that section one of this act shall take effect October 1, 2020.

PART NN

Section 1. Paragraph 2 of subsection (a) of section 104 of the financial services law is amended to read as follows:

(2) "Financial product or service" shall mean: (A) any financial product or financial service offered or provided by any person regulated or required to be regulated by the superintendent pursuant to the banking law or the insurance law or any **other** financial product or service offered or sold to consumers [~~except financial products or services: (i) regulated under the exclusive jurisdiction of a federal agency or authority, (ii) regulated for the purpose of consumer or investor protection by any other state agency, state department or state public authority, or (iii) where rules or regulations promulgated by the superintendent on such financial product or service would be preempted by federal law~~] **or small businesses**; [~~and~~]

(B) **the sale or provision to a consumer or small business of any security, investment advice, or money management device;**

(C) any warranty sold or provided to a consumer or small business or any guarantee or suretyship provided to a consumer;

(D) any merchant cash advance provided to a consumer or small business; or

(E) any contract involving any provision of subparagraphs (A) through (D) of this paragraph.

"Financial product or service" shall [~~also~~] not include [~~the following, when offered or provided by a provider of consumer goods or services: (i) the extension of credit directly to a consumer exclusively for the purpose of enabling that consumer to purchase such consumer good or service directly from the seller, (ii) the collection of debt arising from such credit, or (iii) the sale or conveyance of such debt that is delinquent or otherwise in default~~] **financial products or services where the rules or regulations promulgated by the superintendent on such financial products or services would be preempted by federal law**.

§ 2. Subsection (a) of section 104 of the financial services law is amended by adding a new paragraph 6 to read as follows:

(6) "Small business" shall mean a business which is independently owned and operated, has less than ten million dollars in annual gross receipts or sales, and employs one hundred or less persons.

§ 3. Subsection (a) of section 206 of the financial services law is amended and a new subsection (g) is added to read as follows:

(a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all direct and indirect costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end

of the fiscal year for which the assessment is made (less return premiums and considerations thereon) for policies or contracts of insurance covering property or risks resident or located in this state the issuance of which policies or contracts requires a license from the superintendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. **Persons regulated under this chapter shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulated persons under this chapter in such proportions as the superintendent shall deem just and reasonable.** Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, and upon any regulated person under **this chapter and** the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(g) The expenses of every examination of the affairs of any regulated person subject to this chapter, shall be borne and paid by such regulated person so examined, but the superintendent, with the approval of the comptroller, may, in the superintendent's discretion for good cause shown, remit such charges.

§ 4. The financial services law is amended by adding a new section 312 to read as follows:

§ 312. Restitution. In any administrative proceeding or judicial action brought under this chapter, the banking law, or the insurance law, the superintendent may, in addition to any other penalty or sanction imposed by law, order the individual or entity subject to such proceeding or action to make restitution to all consumers harmed by such individual or entity's conduct.

§ 5. The financial services law is amended by adding a new section 313 to read as follows:

§ 313. Unlicensed actors. Any person or entity that is required by this chapter, the banking law, or the insurance law to be licensed, certified, registered, authorized, chartered, accredited, or incorporated and that is not specifically exempted from such applicable law shall be subject to the laws of this chapter, the banking law, and the insurance law, and the penalties contained therein as if such person or entity was so licensed, certified, registered, authorized, chartered, accredited, or incorporated, even if such person or entity does not possess the required license, certification, registration, authorization, charter, accreditation, or incorporation.

§ 6. Subsection (a) of section 408 of the financial services law is amended to read as follows:

(a) In addition to any civil or criminal liability provided by law, the superintendent may, after notice and hearing, levy a civil penalty:

(1) not to exceed **the greater of** five thousand dollars [~~per~~] **for each** offense[~~,~~]**; a multiple of two times the aggregate damages attributable to the offense; or a multiple of two times the aggregate economic gain attributable to the offense** for:

(A) any [~~intentional~~] fraud**,** [~~or intentional~~] misrepresentation [~~of a material fact~~]**, or unfair, deceptive, or abusive act or practice** with respect to a financial product or service or involving any person offering to provide or providing financial products or services **or involving any service provider utilized by any person offering to provide or providing financial products or services**; or

(B) any violation of state or federal fair debt collection practices or federal or state fair lending laws; [~~and~~] **or**

[~~(2) not to exceed one thousand dollars for~~] **(C)** any other violation of this chapter or the regulations issued thereunder, provided that there shall be no civil penalty under this section for violations of article five of this chapter or the regulations issued thereunder; and

[~~(3)~~] **(2)** provided, however, that:

(A) penalties for regulated persons under the banking law shall be as provided for in the banking law and penalties for regulated persons under the insurance law shall be as provided for in the insurance law; and

(B) the superintendent shall not impose or collect any penalty under this section in addition to any penalty or fine for the same act or omission that is imposed under the insurance law or banking law; and

(C) nothing in this section shall affect the construction or interpretation of the term "fraud" as it is used in any other provision of the consolidated or unconsolidated law.

§ 7. Paragraph 1 of subsection (c) of section 109 of the insurance law, as amended by section 55 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(1) If the superintendent finds after notice and hearing that any authorized insurer, representative of the insurer, licensed insurance agent, licensed insurance broker, licensed adjuster, or any other person or entity licensed, certified, registered, or authorized pursuant to this chapter, has wilfully violated the provisions of this chapter or any regulation promulgated thereunder, then the superintendent may order the person or entity to pay to the people of this state a penalty in a sum not exceeding [~~one~~] **ten** thousand dollars for each offense.

§ 8. This act shall take effect immediately.

PART OO

Section 1. The banking law is amended by adding a new section 4-d to read as follows:

§ 4-d. Protecting vulnerable adults from financial exploitation. 1. Definitions. As used in this section:

(a) "Banking institution" means any bank, trust company, savings bank, savings and loan association, credit union, or branch of a foreign banking corporation, which is chartered, organized or licensed under the laws of this state or any other state or the United States, and, in the ordinary course of business takes deposit accounts in this state.

(b) "Vulnerable adult" means an individual who, because of mental and/or physical impairment is potentially unable to manage his or her own resources or protect himself or herself from financial exploitation.

(c) "Financial exploitation" means: (i) the improper taking, withholding, appropriation, or use of a vulnerable adult's money, assets, or property; or (ii) any act or omission by a person, including through the use of a power of attorney, guardianship, or any other authority regarding a vulnerable adult to: (A) obtain control, through deception, intimidation or undue influence, over the vulnerable adult's money, assets, or property or (B) convert the vulnerable adult's money, assets, or property.

(d) "Transaction hold" means a delay in the completion of one or more financial transactions pending an investigation by a banking institution, adult protective services, or a law enforcement agency.

(e) "Adult protective services" means the division of the New York City Human Resources Administration and each county's department of human services or department of social services responsible for providing adult protective services pursuant to section four hundred seventy-three of the social services law.

(f) "Law enforcement agency" means any agency, including the financial frauds and consumer protection unit of the department of financial services, which is empowered by law to conduct an investigation or to make an arrest for a felony, and any agency which is authorized by law to prosecute or participate in the prosecution of a felony.

2. Application of transaction hold. (a) If a banking institution reasonably believes: (i) that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) that the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation, then the banking institution may, at its discretion, apply a transaction hold on the account of a vulnerable adult, the account on which a vulnerable adult is a beneficiary, including a trust or guardianship account, or the account of a person who is reasonably believed by the banking institution to be engaging in the financial exploitation of a vulnerable adult.

(b) A banking institution may also apply a transaction hold on the account of a vulnerable adult, the account on which a vulnerable adult is a beneficiary, including a trust or guardianship account, or the account of a person who is reasonably believed by the banking institution to be engaging in the financial exploitation of a vulnerable adult, if: (i) adult protective services or a law enforcement agency provides information to the banking institution establishing a reasonable basis to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation.

(c) A banking institution that applies a transaction hold shall:

(i) make a reasonable effort to provide notice, orally or in writing, to all parties authorized to transact business on the account on which a transaction hold was placed within two business days of when the transaction hold was placed;

(ii) immediately, but no later than one business day after the transaction hold is placed, report the transaction hold, including the basis for the banking institution's belief that the financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, to adult protective services and to a law enforcement agency;

(iii) at the request of adult protective services or a law enforcement agency, provide all information and documents that relate to the trans-

action hold within three business days of the request for the information or documents; and

(iv) notwithstanding the transaction hold, make funds available from the account on which a transaction hold is placed to allow the vulnerable adult or other account holder to meet his or her ongoing obligations such as housing and other living expenses or emergency expenses as determined by adult protective services, a law enforcement agency or a not-for-profit organization that regularly provides services to vulnerable adults in the community in which the vulnerable adult resides.

(d) During the pendency of a transaction hold, a banking institution may, in its discretion, also make funds available from the account on which a transaction hold is placed to allow the vulnerable adult or other account holder to meet his or her ongoing obligations such as housing and other living expenses or emergency expenses, provided the banking institution does not have a reasonable basis to believe that the dispersal of such funds to the vulnerable adult or other account holder will result in the financial exploitation of the vulnerable adult. Any such dispersal of funds pursuant to this subdivision shall be reported within one business day after the dispersal is made to adult protective services and to a law enforcement agency.

(e) The superintendent may adopt regulations identifying the factors that a banking institution should consider in determining whether: (i) the financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and (ii) the placement of a transaction hold is necessary to protect a vulnerable adult's money, assets, or property.

3. Duration of transaction hold. (a) Subject to paragraphs (b), (c) and (d) of this subdivision, a transaction hold that a banking institution places on an account pursuant to this section shall terminate five business days after the date on which the transaction hold is applied by the banking institution. A banking institution may terminate the transaction hold at any time during this five day period if the banking institution is satisfied that the termination of the transaction hold is not likely to result in financial exploitation of a vulnerable adult.

(b) A transaction hold may be extended beyond the period set forth in paragraph (a) of this subdivision for up to an additional fifteen days at the request of either adult protective services or a law enforcement agency.

(c) A transaction hold may be extended beyond the periods set forth in paragraphs (a) and (b) of this subdivision only pursuant to an order issued by a court of competent jurisdiction.

(d) A transaction hold may be terminated at any time pursuant to an order issued by a court of competent jurisdiction.

4. Immunity. A banking institution or an employee of a banking institution shall be immune from criminal, civil, and administrative liability for all good faith actions in relation to the application of this section including any good faith determination to apply or not apply a transaction hold on an account where there is reasonable basis to conclude:

(a) that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted; and

(b) that the placement of a transaction hold may be necessary to protect a vulnerable adult's money, assets, or property from financial exploitation, such immunity shall not apply to a determination not to apply a transaction hold when the banking institution or employee acts

recklessly or engages in intentional misconduct in making the determination, or the determination results from a conflict of interest.

5. Certification program. The department may develop a financial exploitation certification program for banking institutions. Upon completion of the training components required by the program and after establishing the necessary internal policies, procedures, and in-house training programs, a banking institution shall receive from the department an adult financial exploitation prevention certificate demonstrating that staff at such banking institution have been trained on how to identify, help prevent, and report the financial exploitation of a vulnerable adult. At the discretion of the superintendent, the certification program may be mandatory for banking institutions licensed by the department.

6. Regulations. The superintendent may issue such rules and regulations that provide the procedures for the enforcement of the terms of this section and any other rules and regulations that he or she deems necessary to implement the terms of this section.

§ 2. This act shall take effect October 1, 2020; provided, however, that the superintendent of financial services may promulgate any rules or regulations related to this act immediately.

PART PP

Section 1. Article 27 of the environmental conservation law is amended by adding a new title 30 to read as follows:

TITLE 30

EXPANDED POLYSTYRENE FOAM CONTAINER AND POLYSTYRENE LOOSE FILL PACKAGING BAN

Section 27-3001. Definitions.
27-3003. Expanded polystyrene foam container and polystyrene loose fill packaging ban.
27-3005. Exemptions.
27-3007. Preemption.
27-3009. Severability.

§ 27-3001. Definitions.

For the purposes of this title, the following terms shall have the following meanings:

1. "Covered food service provider" means a person engaged in the primary or secondary business of selling or distributing prepared food or beverages for on-premise or off-premise consumption including but not limited to: (a) food service establishments, caterers, temporary food service establishments, mobile food service establishments, and push-carts as defined in the New York State Sanitary Code; (b) retail food stores as defined in article 28 of the agriculture and markets law; (c) delicatessens; (d) grocery stores; (e) restaurants; (f) cafeterias; (g) coffee shops; (h) hospitals, adult care facilities, and nursing homes; and (i) elementary and secondary schools, colleges, and universities.

2. "Disposable food service container" means a bowl, carton, clamshell, cup, lid, plate, tray, or any other product that is designed or used for the temporary storage or transport of a prepared food or beverage including a container generally recognized by the public as being designed for single use.

3. "Expanded polystyrene foam" means expanded foam thermoplastics utilizing a styrene monomer and processed by any number of techniques. Such term shall not include rigid polystyrene.

4. "Manufacturer" means every person, firm or corporation that produces or imports polystyrene loose fill packaging that is sold, offered for sale, or distributed in the state.

5. "Polystyrene loose fill packaging" means a void-filling packaging product made of expanded polystyrene that is used as a packaging fill, commonly referred to as packing peanuts.

6. "Prepared food" means food or beverages that are cooked, chopped, sliced, mixed, brewed, frozen, heated, squeezed, combined or otherwise prepared on the premises of a covered food service provider for immediate consumption and require no further preparation to be consumed. Prepared food includes but is not limited to ready to eat takeout foods and beverages.

7. "Rigid polystyrene" means plastic packaging made from rigid, polystyrene resin that has not been expanded, extruded, or foamed.

8. "Store" means a retail or wholesale establishment other than a covered food service provider.

§ 27-3003. Expanded polystyrene foam container and polystyrene loose fill packaging ban.

1. (a) Beginning January first, two thousand twenty-two, no covered food service provider or store shall sell, offer for sale, use, or distribute disposable food service containers used to hold prepared food or beverages that contain expanded polystyrene foam.

(b) Beginning January first, two thousand twenty-two, no covered food service provider, manufacturer, or store shall sell, offer for sale, use, or distribute polystyrene loose fill packaging.

2. The department is authorized to:

(a) undertake a review of additional product packaging, and, based on the environmental impacts of such products, promulgate regulations to limit the sale, use, or distribution of such products;

(b) conduct education and outreach in multiple languages to covered food service providers, manufacturers, and stores to inform them of the provisions of this title; and

(c) promulgate any other such rules and regulations as it shall deem necessary to implement the provisions of this title.

§ 27-3005. Exemptions.

Notwithstanding any inconsistent provision of law, this title shall not apply to:

1. Prepackaged food filled or sealed prior to receipt at a covered food service provider; or

2. Raw meat or raw fish sold for the purpose of cooking or preparing off-premises by the customer; or

3. For purposes of the expanded polystyrene foam container ban, covered food service providers that demonstrate undue financial hardship, as determined by the department, provided however that such covered food service providers that have ten or more locations within the state that (a) conduct business under the same business name or (b) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor shall not be eligible for an exemption.

§ 27-3007. Preemption.

1. Except as provided in subdivision two of this section, any local law or ordinance which is inconsistent with any provision of this title or any rule or regulation promulgated hereunder shall be preempted.

2. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing the prohibition of expanded polystyrene use or sale or the offering for sale of polystyrene loose fill

packaging, which is inconsistent with the provisions of this title or any rules or regulations promulgated hereunder, shall not be preempted if such local law or ordinance is at least as comprehensive as the provisions of this title or any rules or regulations promulgated hereunder.

§ 27-3009. Severability.

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

§ 2. The environmental conservation law is amended by adding a new section 71-2730 to read as follows:

§ 71-2730. Enforcement of title 30 of article 27 of this chapter.

1. Any person who shall violate section 27-3003 of this chapter shall be liable to the state of New York for a civil penalty of not more than two hundred fifty dollars for the first violation, not more than five hundred dollars for the second violation in the same calendar year, not more than one thousand dollars for the third violation in the same calendar year, and not more than two thousand dollars for the fourth and each subsequent violation in the same calendar year. A hearing or opportunity to be heard shall be provided prior to the assessment of any civil penalty.

2. (a) The department, the department of agriculture and markets, the department of health, and the attorney general are hereby authorized to enforce the provisions of section 27-3003 of this chapter.

(b) The provisions of section 27-3003 of this chapter may also be enforced by a village, town, city, or county and the local legislative body thereof may adopt local laws, ordinances or regulations consistent with this title providing for the enforcement of such provisions.

3. Any fines that are collected by the state during proceedings by the state to enforce the provisions of section 27-3003 of this chapter shall be paid into the environmental protection fund established pursuant to section ninety-two-s of the finance law. Any fines that are collected by a municipality during proceedings by the municipality to enforce such provisions within the municipality shall be retained by the municipality.

§ 3. This act shall take effect immediately.

PART QQ

Section 1. The restore mother nature bond act is enacted to read as follows:

ENVIRONMENTAL BOND ACT OF 2020
"RESTORE MOTHER NATURE"

Section 1. Short title.
2. Creation of state debt.
3. Bonds of the state.
4. Use of moneys received.

§ 1. Short title. This act shall be known and may be cited as the "environmental bond act of 2020 restore mother nature".

§ 2. Creation of state debt. The creation of state debt in an amount not exceeding in the aggregate three billion dollars ($3,000,000,000) is hereby authorized to provide moneys for the single purpose of making environmental improvements that preserve, enhance, and restore New

York's natural resources and reduce the impact of climate change by funding capital projects to: restore habitat and reduce flood risk including wetland, floodplain, and stream restoration and protection, acquisition of real property, enhance shoreline protection, forest preservation, development and improvement of fish hatcheries, and removal, alteration, and right-sizing of dams, bridges, and culverts; improve water quality through wastewater infrastructure improvements and upgrades including green infrastructure projects that reduce stormwater impacts, agricultural nutrient management, and expansion of riparian buffers; protect open space and invest in associated recreational infrastructure including land acquisition, development and improvement of park, campground, nature center, and other state recreational facilities; expand the use of renewable energy to mitigate climate change including, but not limited to, clean energy or resiliency projects; and other such projects that preserve, enhance, and restore the quality of the state's environment.

§ 3. Bonds of the state. The state comptroller is hereby authorized and empowered to issue and sell bonds of the state up to the aggregate amount of three billion dollars ($3,000,000,000) for the purposes of this act, subject to the provisions of article 5 of the state finance law. The aggregate principal amount of such bonds shall not exceed three billion dollars ($3,000,000,000) excluding bonds issued to refund or otherwise repay bonds heretofore issued for such purpose; provided, however, that upon any such refunding or repayment, the total aggregate principal amount of outstanding bonds may be greater than three billion dollars ($3,000,000,000) only if the present value of the aggregate debt service of the refunding or repayment bonds to be issued shall not exceed the present value of the aggregate debt service of the bonds to be refunded or repaid. The method for calculating present value shall be determined by law.

§ 4. Use of moneys received. The moneys received by the state from the sale of bonds sold pursuant to this act shall be expended pursuant to appropriations for capital projects related to design, planning, site acquisition, demolition, construction, reconstruction, and rehabilitation including but not limited to, projects specified in section two of this act.

§ 2. This act shall take effect immediately, provided that the provisions of section one of this act shall not take effect unless and until this act shall have been submitted to the people at the general election to be held in November 2020 and shall have been approved by a majority of all votes cast for and against it at such election. Upon approval by the people, section one of this act shall take effect immediately. The ballots to be furnished for the use of voters upon submission of this act shall be in the form prescribed by the election law and the proposition or question to be submitted shall be printed thereon in the following form, namely "To address and combat the impact of climate change and damage to the environment, the Environmental Bond Act of 2020 "Restore Mother Nature" authorizes the sale of state bonds up to three billion dollars to fund environmental protection, natural restoration, resiliency, and clean energy projects. Shall the Environmental Bond Act of 2020 be approved?".

PART RR

Section 1. The environmental conservation law is amended by adding a new article 58 to read as follows:

ARTICLE 58
IMPLEMENTATION OF THE ENVIRONMENTAL BOND ACT OF 2020 "RESTORE MOTHER NATURE"

Section 58-0101. Definitions.
58-0103. Allocation of moneys.
58-0105. Powers and duties.
58-0107. Powers and duties of a municipality.
58-0109. Consistency with federal tax law.
58-0111. Compliance with other law.

§ 58-0101. Definitions.

As used in this article the following terms shall mean and include:

1. "Bonds" shall mean general obligation bonds issued pursuant to the environmental bond act of 2020 "restore mother nature" in accordance with article VII of the New York state constitution and article five of the state finance law.

2. "Cost" means the expense of an approved project, which shall include but not be limited to appraisal, surveying, planning, engineering and architectural services, plans and specifications, consultant and legal services, site preparation, demolition, construction and other direct expenses incident to such project.

3. "Department" shall mean the department of environmental conservation.

4. "Municipality" means a local public authority or public benefit corporation, a county, city, town, village, school district, supervisory district, district corporation, improvement district within a county, city, town or village, or Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, or any combination thereof.

5. "State assistance payment" means payment of the state share of the cost of projects authorized by this article to preserve, enhance, restore and improve the quality of the state's environment.

6. "State entity" means any state department, division, agency, office, public authority, or public benefit corporation.

§ 58-0103. Allocation of moneys.

The moneys received by the state from the sale of bonds pursuant to the environmental bond act of 2020 "restore mother nature" shall be expended for project costs to: restore habitat and reduce flood risk including, wetland, floodplain, and stream restoration and protection, acquisition of real property, enhance shoreline protection, forest preservation, development and improvement of fish hatcheries, and removal, alteration, and right-sizing of dams, bridges, and culverts; improve water quality through wastewater infrastructure and upgrades including green infrastructure projects that reduce stormwater impacts, agricultural nutrient management and expansion of riparian buffers; protect open space and invest in associated recreational infrastructure including land acquisition, development and improvement of park, campground, nature center, and other state recreational facilities; expand the use of renewable energy to mitigate climate change, including, but not limited to, clean energy or resiliency projects; and other such projects that preserve, enhance, and restore the quality of the state's environment.

§ 58-0105. Powers and duties.

In implementing the provisions of this article the department is hereby authorized to:

1. Administer funds generated pursuant to the environmental bond act of 2020 "restore mother nature".

2. In the name of the state, as further provided within this article, contract to make, within the limitations of appropriations available therefor, state assistance payments toward the cost of a project approved, and to be undertaken pursuant to this article.

3. Approve vouchers for the payments pursuant to an approved contract.

4. Enter into contracts with any person, firm, corporation, not-for-profit corporation, agency or other entity, private or governmental, for the purpose of effectuating the provisions of this article.

5. Promulgate such rules and regulations and to develop such forms and procedures necessary to effectuate the provisions of this article, including but not limited to requirements for the form, content, and submission of applications by municipalities for state financial assistance.

6. Delegate to, or cooperate with, any other state entity in the administration of this article.

7. Perform such other and further acts as may be necessary, proper or desirable to carry out the provisions of this article.

§ 58-0107. Powers and duties of a municipality.

A municipality shall have the power and authority to:

1. Undertake and carry out any project for which state assistance payments pursuant to contract are received or are to be received pursuant to this article and maintain and operate such project.

2. Expend money received from the state pursuant to this article for costs incurred in conjunction with the approved project.

3. Apply for and receive moneys from the state for the purpose of accomplishing projects undertaken or to be undertaken pursuant to this article.

4. Perform such other and further acts as may be necessary, proper or desirable to carry out a project or obligation, duty or function related thereto.

§ 58-0109. Consistency with federal tax law.

All actions undertaken pursuant to this article shall be reviewed for consistency with provisions of the federal internal revenue code and regulations thereunder, in accordance with procedures established in connection with the issuance of any tax exempt bonds pursuant to this article, to preserve the tax exempt status of such bonds.

§ 58-0111. Compliance with other law.

Every recipient of funds to be made available pursuant to this article shall comply with all applicable state, federal and local laws.

§ 2. The state finance law is amended by adding a new section 97-tttt to read as follows:

§ 97-tttt. Restore mother nature bond fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of taxation and finance a special fund to be known as the "restore mother nature bond fund".

2. The state comptroller shall deposit into the restore mother nature bond fund all moneys received by the state from the sale of bonds and/or notes for uses eligible pursuant to section four of the environmental bond act of 2020 "restore mother nature".

3. Moneys in the restore mother nature bond fund, following appropriation by the legislature and allocation by the director of the budget, shall be available only for reimbursement of expenditures made from appropriations from the capital projects fund for the purpose of the restore mother nature bond fund, as set forth in the environmental bond act of 2020 "restore mother nature".

4. No moneys received by the state from the sale of bonds and/or notes sold pursuant to the environmental bond act of 2020 "restore mother nature" shall be expended for any project until funds therefor have been allocated pursuant to the provisions of this section and copies of the appropriate certificates of approval filed with the chair of the senate finance committee, the chair of the assembly ways and means committee and the state comptroller.

§ 3. Section 61 of the state finance law is amended by adding a new subdivision 32 to read as follows:

32. Thirty years. For the payment of "restore mother nature" projects, as defined in article fifty-eight of the environmental conservation law and undertaken pursuant to a chapter of the laws of two thousand twenty, enacting and constituting the environmental bond act of 2020 "restore 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 XX 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 fibers or yarns or tufts attached to a backing system made of synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or residential broadloom carpet, modular carpet tiles, and artificial turf, pad or underlayment used in conjunction with a carpet. "Carpet" does not include handmade rugs, area rugs, or mats.

3. "Collection site" means a permanent location in the state at which discarded covered products may be returned by a consumer.

4. "Consumer" means a person located in the state who purchases, owns, leases, or uses covered products, including but not limited to an individual, a business, corporation, limited partnership, not-for-profit corporation, the state, a public corporation, public school, school district, private or parochial school or board of cooperative educational services or governmental entity.

5. "Covered product" means carpets or mattresses.

6. "Discarded covered product" means covered products that are no longer used for its manufactured purpose.

7. "Distributor" or "wholesaler" means a person who buys or otherwise acquires covered products from another source and sells or offers to sell a covered product to retailers in this state.

8. "Energy recovery" means the process by which all or a portion of solid waste materials are processed or combusted in order to utilize the heat content or other forms of energy derived from such solid waste materials.

9. "Mattress" means any resilient material, or combination of materials, that is designed to be used as a bed. Mattress shall not include:

a. an unattached mattress pad or mattress topper that is intended to be used with, or on top of a mattress;

b. a crib or bassinet mattress or car bed;

c. juvenile products, including: a carriage, basket, dressing table, stroller, playpen, infant carrier, lounge pad, crib bumper, and the pads for those juvenile products;

d. a water bed or air mattress; or

e. a fold-out sofa bed or futon.

10. "Producer" means any person who manufactures or renovates a covered product that is sold, offered for sale, or distributed in the state under the manufacturer's own name or brand. "Producer" includes:

a. the owner of a trademark or brand under which a covered product is sold, offered for sale, or distributed in this state, whether or not such trademark or brand is registered in the state; and

b. any person who imports a covered product into the United States that is sold or offered for sale in the state and that is manufactured by a person who does not have a presence in the United States.

11. "Product" means an item sold within the state that is deemed eligible by the department for inclusion in this chapter as a covered product.

12. "Product category" means a group of similar products.

13. "Proprietary information" means information that is a trade secret or is production, commercial or financial information, that if disclosed would impair the competitive position of the submitter and would make available information not otherwise publicly available.

14. "Recycling" means to separate, dismantle or process the materials, components or commodities contained in covered products for the purpose of preparing the materials, components or commodities for use or reuse in new products or components. "Recycling" does not include energy recovery or energy generation by means of combustion, or landfill disposal of discarded covered products or discarded product component materials.

15. "Recycling rate" means the percentage of discarded covered products that is managed through recycling or reuse, as defined by this title, and is computed by dividing the amount of discarded covered products collected and recycled or reused by the total amount of discarded covered products collected over a program year.

16. "Retailer" means any person who sells or offers for sale a covered product to a consumer in the state.

17. "Reuse" means donating or selling a discarded covered product back into the market for its original intended use, when the discarded covered product retains its original performance characteristics and can be used for its original purpose.

18. "Sale" or "sell" means a transfer of title to a covered product for consideration, including a remote sale conducted through a sales outlet, catalog, website, or similar electronic means. "Sale" or "sell" includes a lease through which a covered product is provided to a consumer by a producer, distributor, or retailer.

19. "Stewardship organization" means a nonprofit entity representing covered product producers, or other designated representatives who are cooperating with one another, to collectively establish and operate a stewardship program for the purpose of complying with this title.

20. "Stewardship program" means a program financed and implemented by producers, either individually, or collectively through a producer responsibility organization, that provides for, but is not limited to, the collection, transportation, reuse, recycling or proper management through combustion or disposal, or an appropriate combination thereof, of unwanted products.

§ 27-3203. Stewardship organization responsibilities.

1. A stewardship organization shall be created and financed, individually or collectively, by carpet producers, and a mattress stewardship organization shall be created and financed by mattress producers, individually or collectively, to administer stewardship programs on behalf of those respective producers.

2. On or before July first, two thousand twenty-one, a stewardship organization representing the producer of a covered product must submit a stewardship plan to the department on behalf of the producer and receive approval of the plan.

3. A stewardship organization operating a stewardship program must update the stewardship plan every three years, at a minimum, and submit the updated plan to the department for review and approval.

4. The stewardship organization must notify the department within thirty days of any significant changes or modifications to the plan or

its implementation. Within thirty days of the notification a written plan amendment must be submitted to the department for review and approval.

5. The stewardship plan shall include, at a minimum:

a. Certification that the stewardship program will accept for collection all discarded covered products;

b. Contact information for each individual representing the stewardship organization, including the address of the stewardship organization where the department will send any notifications and for service of process, designation of a program manager responsible for administering the program, a list of all producers participating in the stewardship program, and contact information for each producer, including the address for service of process, and the brands covered by the product stewardship program;

c. A description of the methods by which discarded covered products will be collected with no charge to any person;

d. An explanation of how the stewardship program will, by January first, two thousand twenty-two or six months after stewardship plan approval, achieve, at a minimum, a convenience standard of having at least one collection site in each county of the state, and at least one additional collection site for every fifty thousand residents located in a municipality, that accepts covered products from consumers during normal business hours; however, with respect to a city having a population of one million or more, after consultation with the appropriate local or regional entity responsible for the collection of solid and hazardous waste, the department may otherwise establish an alternative convenience standard. Convenience standards will be evaluated by the department periodically and the department may require additional collection locations to ensure adequate consumer convenience;

e. A description of how the effectiveness of the stewardship program will be monitored, evaluated, and maintained;

f. The names and locations of collection sites, transporters, and processors who will manage discarded covered products;

g. A description of how the discarded covered products will be safely and securely transported, tracked, and handled from collection through final recycling and processing;

h. A description of the methods to be used to reuse or recycle discarded covered products to ensure that the components, to the extent feasible, are transformed or remanufactured into finished products for use;

i. A description of the methods to be used to manage or dispose of discarded covered products that cannot be recycled or reused;

j. A description of the outreach and educational materials that must be provided to consumers, retailers, collection sites, and transporters of discarded covered products, and how such outreach will be evaluated for effectiveness;

k. An up-to-date stewardship organization website and toll-free telephone number through which a consumer can easily learn how and where to recycle their discarded covered products;

l. An annual performance goal, as determined by the department, including an estimate of the percentage of discarded covered products that will be collected, reused, and recycled during each year for the next three years of the stewardship plan;

m. An evaluation of the status of end markets for discarded covered products and what, if any, additional end markets are needed to improve the functioning of the programs; and

n. A funding mechanism that demonstrates sufficient funding to carry out the plan, including the administrative, operational, and capital costs of the plan.

6. By July first, two thousand twenty-three, and by July first of each year thereafter, the stewardship organization shall submit a report to the department that includes, for the previous program year, a description of the stewardship program, including, but not limited to, the following:

a. a description of the methods used to collect, transport, and process discarded covered products in regions of the state;

b. identification of all collection sites in the state;

c. the weight of all discarded covered products collected and reused or recycled in all regions of the state;

d. an evaluation of whether the performance goals and recycling rates established in the stewardship plan have been achieved;

e. an estimated weight of discarded covered products and any component materials that were collected pursuant to the stewardship plan, but not recycled; and

f. any other information required by regulation promulgated by the department.

7. A stewardship organization shall pay the department, the following fees, which shall be adequate to cover the department's full costs of administering and enforcing the stewardship program and shall not exceed the amount necessary to recover costs incurred by the department in connection with the administration and enforcement of the requirements of this title:

a. an annual administrative fee to be established by the department in regulations; and

b. a one-time fee of five thousand dollars for a plan covering an individual producer, or ten thousand dollars for a plan for producers acting collectively, upon submission of an initial stewardship plan.

§ 27-3205. Producer responsibilities.

1. By January first, two thousand twenty-two, each producer shall, individually or collectively, through a stewardship organization, implement and finance a statewide stewardship program that:

a. manages covered products by reducing its waste generation;

b. promotes covered product recycling and reuse or mattress recycling and reuse; and

c. provides for negotiation and execution of agreements to collect, transport, process, and market the producer's discarded covered products for end-of-life recycling, reuse, or disposal.

2. No producer may sell or offer for sale covered products in the state unless the producer is part of a stewardship organization, or individually, operates a stewardship program in compliance with the provisions of this title.

3. The stewardship program must be free to the consumer, convenient and adequate to serve the needs of businesses and residents in all areas of the state on an ongoing basis.

§ 27-3207. Retailer and distributor responsibilities.

1. Beginning January first, two thousand twenty-three, no retailer or distributor may sell or offer for sale covered products in the state unless the producer of such covered product is participating in a stewardship program.

2. Any retailer or distributor may participate, on a voluntary basis, as a designated collection point pursuant to a product stewardship program and in accordance with applicable law.

3. No retailer or distributor shall be found to be in violation of this section if, on the date the covered products were ordered from the producer or its agent, the producer was listed as compliant with this title on the department's website.

§ 27-3209. Department responsibilities.

1. Upon stewardship plan approval, the department shall post information on its website about the stewardship organizations and its participating producers who are in compliance with this title.

2. Beginning January first, two thousand twenty-two, the department shall post on its website the location of all collection sites identified to the department by the stewardship organization in its plans and annual reports.

3. The department shall post on its website each stewardship plan approved by the department.

4. Within sixty days after receipt of a proposed stewardship plan or plan amendment, the department shall approve or reject the plan or the plan amendment. If the plan or plan amendment is approved, the department shall notify the stewardship organization in writing. If the department rejects the plan or plan amendment, the department shall notify the stewardship organization in writing stating the reason for rejecting the plan or plan amendment. A stewardship organization whose plan is rejected must submit a revised plan to the department within thirty days of receiving a notice of rejection.

5. The department shall deposit the fees collected pursuant to this title into the stewardship organization fund as established pursuant to section ninety-two-jj of the state finance law.

§ 27-3211. Rules and regulations.

The department is authorized to promulgate any rules and regulations necessary to implement this title.

§ 27-3213. Enforcement and penalties.

1. Except as otherwise provided in this section, any person or entity that violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed five hundred dollars for each violation and an additional penalty of not more than five hundred dollars for each day during which such violation continues.

2. Any retailer or distributor who violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed one thousand dollars for each violation and an additional penalty of not more than one thousand dollars for each day during which such violation continues.

3. a. Any producer or stewardship organization who violates any provision of or fails to perform any duty imposed pursuant to this title or any rule or regulation promulgated pursuant thereto, or any term or condition of any registration or permit issued pursuant thereto, or any final determination or order of the commissioner made pursuant to this article or article seventy-one of this chapter shall be liable for a civil penalty not to exceed five thousand dollars for each violation and an additional penalty of not more than one thousand five hundred dollars

for each day during which such violation continues. For a second violation committed within twelve months of a prior violation, the producer or stewardship organization shall be liable for a civil penalty not to exceed ten thousand dollars and an additional penalty of not more than three thousand dollars for each day during which such violation continues. For a third or subsequent violation committed within twelve months of any prior violation, the producer or stewardship organization shall be liable for a civil penalty of not to exceed twenty thousand dollars and an additional penalty of six thousand dollars for each day during which such violation continues.

b. All producers participating in a stewardship organization shall be jointly and severally liable for any penalties assessed against the stewardship organization pursuant to this title and article seventy-one of this chapter.

4. Civil penalties under this section shall be assessed by the department after an opportunity to be heard pursuant to the provisions of section 71-1709 of this chapter, or by the court in any action or proceeding pursuant to section 71-2727 of this chapter, and in addition thereto, such person or entity may by similar process be enjoined from continuing such violation and any permit, registration or other approval issued by the department may be revoked or suspended or a pending renewal denied.

5. The department and the attorney general are hereby authorized to enforce the provisions of this title and all monies collected shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

§ 27-3215. State preemption.

Jurisdiction in all matters pertaining to covered products recycling is, by this title, vested exclusively in the state. Any provision of any local law or ordinance, or any rule or regulation promulgated thereto, governing covered product recycling shall, upon the effective date of this title, be preempted; provided however, that nothing in this section shall preclude a person from coordinating, for recycling or reuse, the collection of covered products.

§ 27-3217. Report and criteria for identifying additional covered products or product categories.

1. The department shall by November first, two thousand twenty-two, and biannually thereafter, publish:

a. a review and evaluation of the performance of existing stewardship programs in the state;

b. legislative recommendations the department would propose to improve existing stewardship programs; and

c. recommendations for establishing new stewardship programs. The department may identify a product or product category as a candidate for a stewardship program if it is determined after evaluation of each of the following that:

(i) a stewardship program for the product or product category will increase the recovery of materials for reuse and recycling and reduce the need for use of virgin materials;

(ii) a stewardship program for the product or product category will reduce the costs of waste management to local governments and taxpayers;

(iii) a stewardship program for the product or product category will enhance energy conservation or mitigate climate change impacts;

(iv) a stewardship program for the product or product category will be beneficial for existing and new businesses and infrastructure to manage

the products and lead to the development of new industries to utilize the recovered materials;

(v) there exists public demand for a stewardship program for the product or product category;

(vi) there is success in collecting and processing similar types of products in programs in other states or countries; or

(vii) existing voluntary stewardship programs for the product or product category in the state are not effective in achieving the policy of this chapter.

2. At least thirty days prior to publishing the report pursuant to subdivision one of this section the department shall post the report on its publicly accessible website. Within that period, a person may submit to the department written comments regarding the report.

§ 27-3219. Severability.

The provisions of this title shall be severable and if any phrase, clause, sentence or provision of this title, or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this title and the application thereof shall not be affected thereby.

§ 2. The state finance law is amended by adding a new section 92-jj to read as follows:

§ 92-jj. Stewardship organization fund. 1. There is hereby established in the joint custody of the state comptroller and the commissioner of the department of taxation and finance a special fund to be known as the "stewardship organization fund".

2. The stewardship organization fund shall consist of all revenue collected from fees pursuant to title thirty-two of article twenty-seven of the environmental conservation law and any cost recoveries or other revenues collected pursuant to title thirty-two of article twenty-seven of the environmental conservation law, and any other monies deposited into the fund pursuant to law.

3. Moneys of the fund, following appropriation by the legislature, shall be used for execution of stewardship organization program administration pursuant to title thirty-two of article twenty-seven of the environmental conservation law, and expended for the purposes as set forth in title thirty-two of article twenty-seven of the environmental conservation law.

§ 3. This act shall take effect immediately.

PART TT

Section 1. The opening paragraph of subdivision 1 and subdivision 2 of section 24-0107 of the environmental conservation law, as amended by chapter 654 of the laws of 1977, are amended to read as follows:

"Freshwater wetlands" means lands and waters of the state [~~as shown on the freshwater wetlands map which~~] that have an area of at least twelve and four-tenths acres in size, or if less than twelve and four-tenths acres are of unusual importance; and contain any or all of the following:

2. "Freshwater wetlands map" shall mean a map [~~promulgated~~] developed by the department pursuant to section 24-0301 of this article on which are indicated the boundaries of any freshwater wetlands. These maps will serve the purpose of educating the public on the approximate location of wetlands. These maps are for educational purposes only and are not controlling for purposes of determining if a wetlands permit is required pursuant to section 24-0701 of this article.

§ 2. Subdivisions 1, 2, 3, 4 and 5 of section 24-0301 of the environmental conservation law are REPEALED.

§ 3. Subdivisions 6, 7 and 8 of section 24-0301 of the environmental conservation law, subdivision 6 as amended by chapter 16 of the laws of 2010 and subdivision 7 as amended and subdivision 8 as added by chapter 645 of the laws of 1977, are amended to read as follows:

[~~6.~~] **1.** Except as provided in subdivision [~~eight~~] **three** of this section, the commissioner shall supervise the maintenance of [~~such boundary~~] **freshwater wetlands** maps, which shall be available to the public [~~for inspection and examination at the regional office of the department in which the wetlands are wholly or partly located and in the office of the clerk of each county in which each such wetland or a portion thereof is located~~] **on the department's website**. The commissioner may readjust the map [~~thereafter to clarify the boundaries of the wetlands, to correct any errors on the map, to effect any additions, deletions or technical changes on the map, and to reflect changes as have occurred as a result of the granting of permits pursuant to section 24-0703 of this article, or natural changes which may have occurred through erosion, accretion, or otherwise. Notice of such readjustment shall be given in the same manner as set forth in subdivision five of this section for the promulgation of final freshwater wetlands maps. In addition, at the time notice is provided pursuant to subdivision five of this section, the commissioner shall update any digital image of the map posted on the department's website to reflect such readjustment~~] **at any time to more accurately depict the approximate location of wetlands**.

[~~7.~~] **2.** Except as provided in subdivision [~~eight~~] **three** of this section, the commissioner may, upon his own initiative, and shall, upon a written request by a landowner whose land or a portion thereof may be included within a wetland, or upon the written request of another person or persons or an official body whose interests are shown to be affected, cause to be delineated [~~more precisely~~] the boundary line or lines of a freshwater wetland or a portion thereof. [~~Such more precise delineation of a freshwater wetland boundary line or lines shall be of appropriate scale and sufficient clarity to permit the ready identification of individual buildings and of other major man-made structures or facilities or significant geographical features with respect to the boundary of any freshwater wetland.~~] The commissioner shall undertake to delineate the boundary of a particular wetland or wetlands, or a particular part of the boundary thereof only upon a showing by the applicant therefor of good cause for such [~~more precise~~] delineation and the establishment of such [~~more precise~~] line.

[~~8.~~] **3.** The supervision of the maintenance of any freshwater wetlands map or portion thereof applicable to wetlands within the Adirondack park, the readjustment and precise delineation of wetland boundary lines and the other functions and duties ascribed to the commissioner by subdivisions [~~six and seven~~] **one and two** of this section shall be performed by the Adirondack park agency, which shall make such maps available [~~for public inspection and examination at its headquarters~~] **on the agency's website**.

§ 4. Subdivisions 1 and 4 of section 24-0701 of the environmental conservation law, subdivision 1 as amended by chapter 654 of the laws of 1977 and subdivision 4 as amended by chapter 697 of the laws of 1979, are amended to read as follows:

1. [~~After issuance of the official freshwater wetlands map of the state, or of any selected section or region thereof, any~~] **Any** person desiring to conduct on freshwater wetlands [~~as so designated thereon~~]

any of the regulated activities set forth in subdivision two of this section must obtain a permit as provided in this title.

4. [~~The~~] **On lands in active agricultural use, the** activities of farmers and other landowners in grazing and watering livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under subdivision one [~~hereof~~] **of this section**, except that structures not required for enhancement or maintenance of the agricultural productivity of the land and any filling activities shall not be excluded hereunder, and provided that the use of land [~~designated as a freshwater wetland upon the freshwater wetlands map at the effective date thereof~~] **that meets the definition of a freshwater wetland in section 24-0107 of this article** for uses other than those referred to in this subdivision shall be subject to the provisions of this article.

§ 5. Subdivision 5 of section 24-0703 of the environmental conservation law, as amended by section 38 of part D of chapter 60 of the laws of 2012, is amended to read as follows:

5. [~~Prior to the promulgation of the final freshwater wetlands map in a particular area and the implementation of a freshwater wetlands protection law or ordinance, no person shall conduct, or cause to be conducted, any activity for which a permit is required under section 24-0701 of this title on any freshwater wetland unless he has obtained a permit from the commissioner under this section.~~] Any person may inquire of the department as to whether or not a given parcel of land [~~will be designated~~] **includes** a freshwater wetland subject to regulation. The department shall give a definite answer in writing within [~~thirty~~] **sixty** days of such request as to [~~whether~~] **the status of** such parcel [~~will or will not be so designated~~]. Provided that, in the event that weather or ground conditions prevent the department from making a determination within [~~thirty~~] **sixty** days, it may extend such period until a determination can be made. Such answer in the affirmative shall be reviewable; such an answer in the negative shall be a complete defense to the enforcement of this article as to such parcel of land. [~~The commissioner may by regulation adopted after public hearing exempt categories or classes of wetlands or individual wetlands which he determines not to be critical to the furtherance of the policies and purposes of this article.~~]

§ 6. Subdivision 1 of section 24-0901 of the environmental conservation law, as added by chapter 614 of the laws of 1975, is amended to read as follows:

1. [~~Upon completion of the freshwater wetlands map, the~~] **The** commissioner shall confer with local government officials in each region in which the inventory has been conducted to establish a program for the protection of the freshwater wetlands of the state.

§ 7. Subdivisions 1 and 5 of section 24-0903 of the environmental conservation law, as added by chapter 614 of the laws of 1975, are amended to read as follows:

1. [~~Upon completion of the freshwater wetlands map of the state, or of any selected section or region thereof, the~~] **The** commissioner shall [~~proceed to~~] classify freshwater wetlands [~~so designated thereon~~] **regulated pursuant to section 24-0701 of this article** according to their most appropriate uses, in light of the values set forth in section 24-0105 of this article and the present conditions of such wetlands. The

commissioner shall determine what uses of such wetlands are most compatible with the foregoing and shall prepare minimum land use regulations to permit only such compatible uses. The classifications may cover freshwater wetlands in more than one governmental subdivision. Permits pursuant to section 24-0701 of this article are required whether or not a classification has been promulgated.

5. Prior to the adoption of any land use regulations governing freshwater wetlands, the commissioner shall hold a public hearing thereon in the area in which the affected freshwater wetlands are located, and give fifteen days prior notice thereof by **posting on the department's website or by** publication at least once in a newspaper having general circulation in the area of the local government involved. The commissioner shall promulgate the regulations within thirty days of such hearing and **post such order on the department's website or** publish such order [~~at least once~~] in a newspaper having general circulation in the area of the local government affected and make such plan available for public inspection and review; such order shall not take effect until thirty days after the filing thereof with the clerk of the county in which such wetland is located.

§ 8. Subdivisions 2 and 3 of section 34-0104 of the environmental conservation law, as added by chapter 841 of the laws of 1981, are amended to read as follows:

2. Upon completion of a preliminary identification of an erosion hazard area, the commissioner or his designated hearing officer shall hold a public hearing in a place reasonably accessible to residents of the affected area in order to afford an opportunity for any person to propose changes in such preliminary identification. The commissioner shall [~~give notice of such hearing to each owner of record, as shown on the latest completed tax assessment rolls, of lands included within such area, and also to the chief executive officer and clerk of each local government within the boundaries of which any portion of such area may be located, by certified mail at least thirty days prior to the date set for such hearing, and shall~~] insure that a copy of the preliminary identification is available for public inspection at a convenient location [~~in such local government~~]. The commissioner shall also cause notice of such hearing to be published at least once, not more than thirty days nor fewer than ten days before the date set for such hearing, in at least one newspaper having general circulation in the area involved and in the environmental notice publication provided for under section 3-0306 of this chapter.

3. After considering the testimony given at such hearings and the potential erosion hazard in accordance with the purposes and policies of this article, and after consultation with affected local governments, the commissioner shall issue the final identification of the erosion hazard areas. Such final identification shall not be made less than sixty days from the date of the public hearing required by subdivision two hereof. A copy of such final identification shall be filed in the office of the clerk of each local government in which such area or any portion thereof is located. Notice [~~that such final identification has been made shall be given each owner of lands included within the erosion hazard area, as such ownership is shown on the latest completed tax assessment rolls, by certified mail in any case where a notice by certified mail was not sent pursuant to subdivision two of this section, and in all other cases by first class mail. Such notice~~] shall also be given at such time to the chief executive officer of each local government

within the boundaries of which such erosion hazard area or any portion thereof is located.

§ 9. Paragraphs (a) and (b) 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, are amended to read as follows:

(a) All persons required to obtain a permit from the department pursuant to section 24-0701 of this chapter shall submit to the department an application fee in an amount [~~not to exceed the following:~~

~~(i) fifty 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 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 and discontinued by the attorney general with the consent of the commissioner.

b. Upon determining that significant damage to the functions and benefits of tidal wetlands **or coastal erosion hazard areas** is occurring or is imminent as a result of any violation of article twenty-five **or article thirty-four**, including but not limited to (i) activity taking place requiring a permit under article twenty-five **or article thirty-four** but for which no permit has been granted or (ii) failure on the part of a permittee to adhere to permit conditions, the commissioner shall have power to direct the violator to cease and desist from violating the act. In such cases the violator shall be provided an opportunity to be heard within ten days of receipt of the notice to cease and desist.

c. Following a hearing held pursuant to section 71-1709 of this article, the commissioner shall have power to direct the violator to cease and desist from violating the act and to restore the affected tidal wetland or area immediately adjacent thereto **or coastal erosion hazard areas** to its condition prior to the violation, insofar as that is possible within a reasonable time and under the supervision of the commissioner. Any order of the commissioner shall be enforceable in an action brought by the commissioner in any court of competent jurisdiction. Any civil penalty or order issued by the commissioner under this subdivision shall be reviewable in a proceeding under article seventy-eight of the civil practice law and rules.

2. Criminal sanctions. Any person who violates any provision of article twenty-five **or article thirty-four** shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than five hundred nor more than five thousand dollars; for a second and each subsequent offense such person shall be guilty of a misdemeanor punishable by a fine of not less than one thousand nor more than ten thousand dollars or a term of imprisonment of not less than fifteen days nor more than six months or both. In addition to or instead of these punishments, any offender shall be punishable by being ordered by the court to restore the affected tidal wetland or area immediately adjacent thereto **or coastal erosion hazard areas** to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of the restoration, which shall be effected under the supervision of the commissioner. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

§ 14. Section 71-2505 of the environmental conservation law, as amended by chapter 249 of the laws of 1997, is amended to read as follows:

§ 71-2505. Enforcement.

The attorney general, on his **or her** own initiative or at the request of the commissioner, shall prosecute persons who violate article twenty-five **or article thirty-four**. In addition the attorney general, on

his **or her** own initiative or at the request of the commissioner, shall have the right to recover a civil penalty of up to ten thousand dollars for every violation of any provision of such [~~article~~] **articles**, and to seek equitable relief to restrain any violation or threatened violation of such [~~article~~] **articles** and to require the restoration of any affected tidal wetland or area immediately adjacent thereto **or coastal erosion hazard area** to its condition prior to the violation, insofar as that is possible, within a reasonable time and under the supervision of the commissioner. In the case of a continuing violation, each day's 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 parklands shall continue to be used for park purposes as they were prior to the establishment of the permanent easements.

§ 2. The authorization granted in section one of this act shall be effective only upon the condition that the county of Nassau dedicate an amount equal to or greater than the fair market value of the permanent and temporary easements being conveyed and the temporary alienation pursuant to section one of this act to the acquisition of new parklands and/or capital improvements to existing park and recreational facilities.

§ 3. TEMPORARY EASEMENT - Force main shaft construction area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Bay Park, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: beginning at a point on the northerly line of the Nassau County Sewage Treatment Plant property, said Point of Beginning being South 68°00' East, as measured along northerly line of said sewage treatment plant, 543 feet plus or minus, from the intersection of the northerly line Nassau County Sewage Treatment Plant with the westerly side of Compton Street; running thence South 68°00' East, along the northerly line of said sewage treatment plant, 247 feet plus or minus; thence South 07°04' West 196 feet plus or minus; thence North 78°37' West 33 feet plus or minus; thence North 06°10' East 105 feet plus or minus; thence North 30°53' West 56 feet plus or minus; thence North 64°27' West 190 feet plus or minus; thence North 20°21' East 49 feet plus or minus, to the northerly line of the Nassau County Sewage Treatment Plant, at the Point of Beginning. Containing within said bounds 19,700 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: 42 Block: A Lots: 50, 57 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 Bay Park, 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 northerly line of the Nassau County Sewage Treatment Plant with the westerly side of Compton Street: running thence South 68°00' East, along the northerly line of said sewage treatment plant, 581 feet plus or minus to the centerline of the permanent easement for a force main described in section five of this act; thence

South 21°34' West, along said centerline, 17 feet plus or minus; thence South 14°28' West, continuing along said centerline, 1,439 feet plus or minus, to the center of the herein described circular easement. Containing within said bound 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: 42 Block: A Lots: 50, 57 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 Bay Park, Town of Hempstead, County of Nassau and State of New York being a 20-foot wide strip of land more particularly bounded and described as follows: beginning at a point on the northerly line of the Nassau County Sewage Treatment Plant property, said Point of Beginning being South 68°00' East, as measured along northerly line of said sewage treatment plant, 571 feet plus or minus, from the intersection of the northerly line Nassau County Sewage Treatment Plant with the westerly side of Compton Street; running thence South 68°00' East, along the northerly line of said sewage treatment plant, 20 feet plus or minus; thence South 21°34' West 17 feet plus or minus; thence South 14°28' West 1,463 feet plus or minus; thence North 75°32' West 20 feet plus or minus; thence North 14°28' East 1,464 feet plus or minus; thence North 21°34' East 18 feet plus or minus, to the northerly line of the Nassau County Sewage Treatment Plant, at the Point of Beginning. Containing within said bounds 29,600 square feet. 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: 42 Block: A Lots: 50, 57 on the Nassau County Land and Tax Map.

§ 6. TEMPORARY EASEMENT - Force main shaft construction area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at the hamlet of Wantagh, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: beginning at a point on the northwesterly line of the herein described temporary easement for the force main shaft construction area, said Point of Beginning being more particularly described as commencing at the intersection of the southerly side of Sunrise Highway Street with the southeasterly side of Lakeview Road; running thence southerly along the southeasterly side of Lakeview Road 243 feet plus or minus, to the centerline of the permanent subsurface easement for force main described in section eight of this act; thence South 60°06' East, along said centerline, 25 feet plus or minus, to the northwesterly line of the temporary easement for the force main shaft construction area, at the Point of Beginning. Running thence North 39°06' East 111 feet plus or minus; thence South 55°47' East 70 feet plus or minus; thence South 38°42' West 240 feet plus or minus; thence North 54°11' West 72 feet plus or minus; thence North 39°06' East 127 feet plus or minus, to the Point of Beginning. Containing within said bounds 16,900 square feet plus or minus. The above described tempo-

rary easement is for the construction of a thirty-foot diameter access shaft. The location of said access shaft is more particularly described in section seven of this act. Said parcel being part of property designated as Section: 56 Block: Y Lot: 259 on the Nassau County Land and Tax Map.

§ 7. 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 Hamlet of Wantagh, 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 two (2) courses from the intersection of the southerly side of Sunrise Highway with the southeasterly side of Lakeview Road: Southerly along the southeasterly side of Lakeview Road 243 feet plus or minus, to the centerline of the permanent subsurface easement for force main, described in section eight of this act; South 60°06' East, along said centerline, 51 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: 56 Block: Y Lot: 259 on the Nassau County Land and Tax Map.

§ 8. 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 the Hamlet of Wantagh, Town of Hempstead, County of Nassau and State of New York being a 20-foot wide strip of land more particularly bounded and described as follows: beginning at a point on the southeasterly side of Lakeview Road, said Point of Beginning being southwesterly 222 feet plus or minus, as measured along the southeasterly side of Lakeview Road from the intersection of the southerly side of Sunrise Highway with the southeasterly side of Lakeview Road; thence South 60°06' East 49 feet plus or minus; thence South 32°15' East 1,759 feet plus or minus; thence South 16°16' West 53 feet plus or minus; thence North 32°15' West 1,785 feet plus or minus; thence North 60°06' West 53 feet plus or minus, to the southeasterly side of Lakeview Road; thence North 48°13' East, along the southeasterly side of Lakeview Road, 42 feet plus or minus, to the Point of Beginning. Containing within said bounds 72,900 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: 56 Block: Y Lots: 259 on the Nassau County Land and Tax Map.

§ 9. TEMPORARY EASEMENT - Force main shaft construction area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at the hamlet of Wantagh, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: beginning at a point on the northerly line of the herein described temporary easement for the

force main shaft construction area, said Point of Beginning being more particularly described as commencing at the intersection of the southerly side of Byron Street with the easterly side of Wantagh Parkway; running thence southerly along the easterly side of Wantagh Parkway 319 feet plus or minus, to the centerline of the permanent subsurface easement for force main, described in section eleven of this act; thence South 19°15' East, along said centerline, 257 feet plus or minus, to the northerly line of the temporary easement for the force main shaft construction area, at the Point of Beginning. Running thence North 87°25' East 122 feet plus or minus; thence south 33°56' East 68 feet plus or minus; thence South 04°43' East 54 feet plus or minus; thence South 86°38' West 78 feet plus or minus; thence South 02°20' East 83 feet plus or minus; thence South 47°04' West 103 feet plus or minus; thence South 86°22' West 28 feet plus or minus; thence North 08°39' West 264 feet plus or minus; thence North 87°25' East 53 feet plus or minus, to the Point of Beginning. Containing within said bounds 36,500 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 ten of this act. Said parcel being part of property designated as Section: 63 Block: 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

§ 10. 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 Hamlet of Wantagh, 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 two (2) courses from the intersection of the southerly side of Byron Street with the easterly side of Wantagh Parkway: Southerly along the easterly side of Wantagh Parkway 319 feet plus or minus, to the centerline of the permanent subsurface easement for force main, described in section eleven of this act; thence South 19°15' East, along said centerline, 315 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: 63 Block: 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

§ 11. 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 the Hamlet of Wantagh, Town of Hempstead, County of Nassau and State of New York being a 20-foot wide strip of land more particularly bounded and described as follows: beginning at a point on the easterly side of Wantagh Parkway, said Point of Beginning being southerly 285 feet plus or minus, as measured along the easterly side of Wantagh Parkway from the intersection of the southerly side of Byron Street with the easterly side of Wantagh Parkway; running thence South 19°15' East 349 feet plus or minus; thence South

02°17' East 1,882 feet plus or minus; thence South 09°25' East 1,202 feet plus or minus; thence South 80°35' West 20 feet plus or minus; thence North 09°25' West 1,203 feet plus or minus; thence North 02°17' West 1,880 feet plus or minus; thence North 19°15' West 281 feet plus or minus, to the easterly side of Wantagh Parkway; thence North 02°09' West, along the easterly side of Wantagh Parkway, 68 feet plus or minus, to the Point of Beginning. Containing within said bounds 68,000 square feet plus or minus. The above described permanent easement is for the construction and operation of a six-foot diameter force main at a minimum depth of fifteen feet below the ground surface. Said parcel being part of property designated as Section: 63 Block: 261 Lots: 765G, 818A (Part of Cedar Creek Park) on the Nassau County Land and Tax Map.

§ 12. In the event that the county of Nassau 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 eleven of this act, the discontinuance and alienation of such parklands authorized by the provisions of this act shall not occur until the county of Nassau 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.

§ 13. This act shall take effect immediately.

SUBPART B

Section 1. The village of East Rockaway, in the county of Nassau, is hereby authorized, acting by and through the village board 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 four and five of this act, and (b) a temporary easement upon and under the parklands described in section three of this act. Authorization for the temporary easement described in section three 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 easement. Authorization for the permanent easements described in sections four and five 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 East Rockaway dedicate an amount equal to or greater than the fair market value of the permanent and temporary easements being conveyed and the temporary alienation pursuant to section one of this act to the acquisition of new parklands and/or capital improvements to existing park and recreational facilities within the Village of East Rockaway.

§ 3. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Parkland upon and under which a temporary easement may be established pursu-

ant to subdivision (b) of section one of this act is described as follows: 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: beginning at a point on the westerly line of the herein described temporary easement for the force main shaft construction area, said Point of Beginning being more particularly described as commencing at the intersection of the 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 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 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 dedicate an amount equal to or greater than the fair market value of the permanent and temporary easements being conveyed and the temporary alienation pursuant to section one of this act to the acquisition of new parklands and/or capital improvements to existing park and recreational facilities within the village of Rockville Centre.

§ 3. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of East Rockaway, and the Incorporated Village of Rockville Centre, Town of Hempstead, County of Nassau and State of New York, being a 20-foot wide strip of land more particularly bounded and described as follows: the Point of Beginning being at the intersection of the northerly side of Mill River Avenue with the easterly side of Riverside Road; running thence northerly along the easterly side of Riverside Road 346 feet plus or minus; thence South 13°01' West 346 feet plus or minus, to the northerly side of Mill River Avenue; thence westerly along the northerly side of Mill River Avenue, 17 feet plus or minus, to the easterly side of Riverside Road, at the Point of Beginning. Containing within said bounds 3,100 square feet plus or minus. The above described permanent easement is for the construction and operation of a six-foot diameter force main at a minimum depth of fifteen feet below the ground surface. Said parcel being part of property designated as Section: 38 Block: 136 Lots: 231 on the Nassau County Land and Tax Map.

§ 4. PERMANENT SUBSURFACE EASEMENT - Access Shaft. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as a circular easement with a radius of 15 feet, the center of said circle being the following two (2) courses from the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road: Easterly along the northerly side of Park Avenue, 203 feet plus or minus, to the centerline of the permanent subsurface easement for force main described in section six of this act; North 13°01' East, along said centerline, 953 feet plus or minus, to the center of the herein described circular easement. Containing within said bounds a surface area of 707 square feet plus or minus. Said permanent easement is for an access shaft that extends from the surface of the ground to an approximate depth of 70 feet. Any permanent surface improvements for cathodic protection, if necessary, would be flush with the ground surface or integrated into site landscaping. Said parcel being part of property designated as Section: 38 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on the Nassau County Land and Tax Map.

§ 5. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: Beginning at a point on the southerly side of the herein described temporary easement for the force main shaft construction area, said Point of Beginning being more particularly described as commencing at the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road; running thence easterly along the northerly side of Park Avenue, 203 feet plus or minus, to the centerline of the permanent subsurface easement for force main described in section six of this act; thence North 13°01' East, along said centerline, 920 feet plus or minus, to the southerly line of the temporary easement, at the Point of Beginning. Running thence North 76°19' West 136 feet plus or minus, to the easterly terminus of Merton Avenue (unopened); thence North 76°19' West, through the unopened part of Merton Avenue, 48 feet plus or minus; thence North 14°49' East 5' feet plus or minus, to the northerly side of Merton Avenue; thence North 14°49' East 27' feet plus or minus; thence South 76°29' East 66 feet plus or minus; thence North 36°47' East 61 feet plus or minus; thence North 78°41' East 145 feet plus or minus; thence South 65°54' East 46 feet plus or minus; thence South 29°39' West 147 feet plus or minus; thence North 76°19' West 42 feet plus or minus, to the Point of Beginning. Containing within said bounds 22,800 square feet plus or minus. The above described temporary easement is for the construction of a thirty-foot diameter access shaft. The location of said access shaft is more particularly described in section four of this act. Said parcel being part of property designated as Section: 38 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on the Nassau County Land and Tax Map.

§ 6. PERMANENT SUBSURFACE EASEMENT - Force Main. Parkland upon and under which a permanent easement may be established pursuant to subdivision (a) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Incorporated Village of East Rockaway, and Incorporated Village of Lynbrook, Town of Hempstead, County of Nassau and State of New York being a 20-foot wide strip of land more particularly bounded and described as follows: beginning at a point on the northerly side of Park Avenue, said Point of Beginning 193 feet plus or minus easterly, as measured along the northerly side of Park Avenue from the intersection of the northerly side of Park Avenue with the easterly side of Oxford Road; running thence North 13°01' East 956 feet plus or minus; thence North 44°00' East 446 feet plus or minus, to the northeasterly line of property designated as Section 38 Block F Lot 50F, on the Nassau County Land and Tax Map; thence South 53°10' East, along said northeasterly line, 20 feet plus or minus; thence South 44°00' West 443 feet plus or minus; thence South 13°01' West 950 feet plus or minus, to the northerly side of Park Avenue; thence North 79°36' West, along said northerly side, 20 feet plus or minus to the Point of Beginning; containing within said bounds 28,000 square feet plus or minus. The above described permanent easement is for the construction and operation of a six-foot diameter force main at a minimum depth of fifteen feet below the ground

surface. Said parcel being part of property designated as Section: 38 Block: F Lots: 39-42, 50C, 50F and Section: 38, Block: T, Lots: 50A, 50B, 50C on the Nassau County Land and Tax Map.

§ 7. TEMPORARY EASEMENT - Force Main Shaft Construction Area. Parkland upon and under which a temporary easement may be established pursuant to subdivision (b) of section one of this act is described as all that certain plot, piece or parcel of land with buildings and improvements thereon erected, situate, lying and being located at Incorporated Village of Rockville Centre, Town of Hempstead, County of Nassau and State of New York being more particularly bounded and described as follows: beginning at a point on the northerly side of Sunrise Highway (New York State Route 27A), said Point of Beginning being distant 254 feet plus or minus westerly as measured along the northerly side of Sunrise Highway from the intersection of the northerly side of Sunrise Highway with the westerly side of Forest Avenue; running thence North 86°15' West, along the northerly side of Sunrise Highway, 175 feet plus or minus; thence South 68°26' West, continuing along the northerly side of Sunrise Highway, 111 feet plus or minus; thence North 14°47' West 162 feet plus or minus, to the southerly side of the Long Island Rail Road right-of-way; thence South 86°59' East, along the southerly side of the Long Island Rail Road, 479 feet plus or minus; thence South 01°59' West 75 feet plus or minus, to the northerly side of the travelled way of Sunrise Highway, then 160 feet plus or minus along the arc or a circular curve to the left that has a radius of 850 feet and a chord that bears South 80°03' West 160 feet plus or minus to the Point of Beginning. Containing within said bounds 50,300 square feet plus or minus. The above described temporary easement is necessary for the construction of temporary access to the aqueduct below Sunrise Highway area. Said parcel being part of property designated as Section: 38 Block: 291 Lot: 17 on the Nassau County Land and Tax Map.

§ 8. In the event that the village of Rockville Centre 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 seven of this act, the discontinuance and alienation of such parklands authorized by the provisions of this act shall not occur until the village of Rockville Centre 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.

§ 9. This act shall take effect immediately.

§ 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 VV

Section 1. Subdivision 13 of section 23-0101 of the environmental conservation law, as amended by chapter 846 of the laws of 1981, is amended and four new subdivisions 21, 22, 23, and 24 are added to read as follows:

13. "Plug and abandon" means the plugging, **and** replugging if necessary, and abandonment of a **well or** well bore including the placing of all bridges, plugs, and fluids therein and the restoration and reclamation of the surface **of affected land** in the immediate vicinity to a reasonable condition consistent with the adjacent terrain **unless such restoration and reclamation of the surface is waived by the landowner and approved by the department**.

21. "Abandoned" means wells or affected land regulated pursuant to titles 1, 3, 5, 7, 11, 13 and 19 of this article for which the responsible owner or operator neglects or refuses to comply with its statutory or regulatory obligations and responsibilities related to such wells or affected land, after notice and as determined by the department.

22. "Affected land" means land or lands in the immediate vicinity of wells, including well pads and access roads, that are disturbed or impacted, or potentially disturbed or impacted, by activities regulated pursuant to titles 1, 3, 5, 7, 11, 13 and 19 of this article.

23. "Orphaned" means wells or affected land regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of this article for which no responsible owner or operator exists or can be reasonably found, as determined by the department.

24. "Well" and "well bore" means an existing or proposed hole, drilled or constructed, that is cased, uncased or both, for the purpose of producing oil or gas or both, or for the purpose of a storage, solution mining, injection, monitoring, stratigraphic, brine disposal or geothermal well regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13 and 19 of this article.

§ 2. Subdivision 8 of section 23-0305 of the environmental conservation law, as added by chapter 846 of the laws of 1981, paragraph e as amended by chapter 386 of the laws of 2005, paragraph f as amended by chapter 721 of the laws of 1989, and paragraph k as added by chapter 891 of the laws of 1984, is amended to read as follows:

8. With respect to oil pools or fields [~~and~~]**,** natural gas pools or fields, **underground gas storage reservoirs, and wells and their affected land regulated pursuant to titles one, three, five, seven, nine, eleven, thirteen, and nineteen of this article,** the department shall have power to:

a. Make such investigations as it deems proper to determine whether waste exists or is imminent.

b. Require identification of ownership of producing leases, tanks, plants, structures and facilities for the transportation and refining of oil and gas.

c. Classify and reclassify **wells or affected land as abandoned or orphaned,** pools as oil or gas pools, or wells as oil [~~or~~]**,** gas**, injection, monitoring, or underground storage** wells**, and require identification of wells as an oil, gas, injection, monitoring, or underground storage well**, including the delineation of boundaries for purposes material to the interpretation or administration of this article.

d. Require the drilling, casing, operation, plugging and replugging of wells and reclamation of surrounding land in accordance with rules and

regulations of the department in such manner as to prevent or remedy the following, including but not limited to: the escape of oil, gas, brine or water out of one stratum into another; the intrusion of water into oil or gas strata other than during enhanced recovery operations; the pollution of fresh water supplies by oil, gas, salt water or other contaminants; and blowouts, cavings, seepages and fires.

e. Enter, take temporary possession of, **repair,** plug or replug any abandoned **or orphaned** well as provided in the rules and regulations, whenever any owner or operator neglects or refuses to comply with such rules and regulations. Such **repairing,** plugging or replugging by the department shall be at the expense of the owner or operator whose duty it may be to **repair or** plug the well and who shall hold harmless the state of New York for all accounts, damages, costs and judgments arising from the **repairing,** plugging or replugging of the well and the surface restoration of the affected land. Primary liability for the expense of such **repairing,** plugging or replugging and first recourse for the recovery thereof shall be to the operator unless a contract for the production, development, exploration or other working of the well, to which the lessor or other grantor of the oil and gas rights is a party, shall place such liability on the owner or on the owner of another interest in the land on which the well is situated. When an operator violates any provision of this article, any rule or regulation promulgated thereunder, or any order issued pursuant thereto in reference to **repairing,** plugging or replugging an abandoned **or orphaned** well, the operator may not transfer the operator's responsibility therefor by surrendering the lease. Prior to the commencement of drilling of any well, the operator shall be required to furnish to the department, and continuously maintain, a bond acceptable to it conditioned upon the performance of said operator's plugging responsibilities with respect to said well. Upon the approval of the department, in lieu of such bond, the operator may deposit cash or negotiable bonds of the United States Government of like amount in an escrow account conditioned upon the performance of said operator's plugging responsibilities with respect to said well. Any interest accruing as a result of the aforementioned escrow deposit shall be the exclusive property of the operator. The aforementioned bonding requirements shall remain the obligation of the original operator regardless of changes in operators unless a subsequent operator has furnished the appropriate bond or substitute as herein provided acceptable to the department and approval for the transfer of the well **operatorship, which includes** plugging **and surface restoration** responsibilities**,** to the subsequent operator has been granted by the department. The failure of any operator to maintain a bond or other financial security as prescribed herein shall be deemed a breach of plugging **and surface restoration** responsibilities and entitle the department to claim the proceeds of the bond or other financial security. The cost of **repairing,** plugging or replugging any well, where such action is necessary or incident to the commencing or carrying on of storage operations pursuant to section 23-1103 or 23-1301 shall be borne by the operator of the storage facility.

f. Require that every person who produces, sells, purchases, acquires, stores or injects oil or gas and associated fluids and every person who transports oil or gas in this state shall keep and maintain complete and accurate records of the quantities thereof. Quantities of associated fluids injected or produced may be reported as estimated volumes. True copies or duplicates shall be kept or made available for examination within this state by the department or its agents at all reasonable

times and every such person shall file with the department such reports concerning production, sales, purchases, acquisitions, injection, transportation or storage on a form provided by the department or approved by the department prior to submittal.

g. In addition to the powers provided for in titles 1, 3, 5 and 13 of article 71, order an immediate suspension of drilling or production operations whenever such operations are being carried on in violation of this article or any rule or regulation promulgated thereunder or order issued pursuant thereto. Any order issued pursuant to this paragraph may be reviewed upon application of an aggrieved party by means of an order to show cause which order shall be issued by any justice of the supreme court in the judicial district in which any order applies and shall be returnable on the third succeeding business day following the issuance of such order. Service of such show cause order shall be made upon the regional office of the department for the region in which such order applies, and upon the attorney general by delivery of such order to an assistant attorney general at an office of the attorney general in the county in which venue of the proceeding is designated, or if there is no office of the attorney general within such county, at the office of the attorney general nearest such county. Except as hereinabove specified, the proceeding to review an order under this paragraph shall be governed by article seventy-eight of the civil practice law and rules.

h. Require the immediate reporting of any non-routine incident including but not limited to casing and drill pipe failures, casing cement failures, fishing jobs, fires, seepages, blowouts and other incidents during drilling, completion, producing, plugging or replugging operations that may affect the health, safety, welfare or property of any person. The department may require the operator, or any agent thereof, to record any data which the department believes may be of subsequent use for adequate evaluation of a non-routine incident.

i. Require the taking and making of well logs, well samples, directional surveys and reports on well locations and elevations, drilling and production, and further require their filing pursuant to the provisions of this article. Upon the request of the state geologist, the department shall cause such duplicate samples or copies of records and reports as may be required pursuant to this article to be furnished to him.

j. Give notice to persons engaged in underground mining operations of the commencement of any phase of oil or gas well operations which may affect the safety of such underground mining operations or of the mining properties involved. Rules and regulations promulgated under this article shall specify the distance from underground mining operations within which such notice shall be given and shall contain such other provisions as in the judgment of the department shall be necessary in the interest of safety. 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.

k. (1) Except as to production of gas from lands under the waters of Lake Erie, in order to satisfy the financial security requirements contained in paragraph e of this subdivision for wells [~~less than six thousand feet in depth~~] for which the department [~~either~~] **on or after October first, nineteen hundred sixty-three** shall have issued or shall issue permits to drill**, deepen, convert or plug back** such wells or, on or after June fifth, nineteen hundred seventy-three, shall have issued

acknowledgements of notices of intention to drill such wells or, for all wells subject to this article for which requests for transfer of well operatorship, which includes plugging and surface restoration responsibilities, are approved by the department on or after the effective date of the chapter of the laws of two thousand twenty that amended this paragraph, without any way affecting any obligations to plug such wells, the operator shall provide a bond or other financial security acceptable 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.

a-1. Classify and reclassify wells or affected land as abandoned or orphaned, or wells or unrestored lands regulated pursuant to titles 1, 3, 5, 7, 9, 11, 13, and 19 of this article, and require well identification as a solution mining well or monitoring well.

b. Require the drilling, casing, operation and plugging of wells in accordance with rules and regulations of the department in such a manner as to prevent the loss or escape of oil or gas reserves to the surface or to other strata; the intrusion of brine or water into commercial oil or gas reserves; the pollution of fresh water supplies by oil, gas or salt water, and to facilitate the efficient use of ground and surface waters in solution mining.

c. Give notice to persons engaging in underground mining operations of the commencing of any phase of solution mining well operations which may affect the safety of such underground mining operations or of the mining properties involved. Rules and regulations of the department adopted pursuant hereto shall specify the distance from such underground mining operations within which such notice shall be given and shall contain such other provisions as in the judgment of the department shall be necessary in the interest of safety. The department shall not be required to furnish any notice pursuant hereto 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.

d. Require metering or other measuring of brine produced by solution mining, and the maintenance of the records from each cavity or group of interconnected cavities until the wells in a cavity have been plugged and [~~abandoned~~] **affected land restored**. These records shall be given to the department on request.

e. Enter, take temporary possession of, **repair,** plug or replug any abandoned **or orphaned** well as provided in the rules and regulations, whenever any operator neglects or refuses to comply with such rules and regulations. Such **repairing,** plugging or replugging by the department shall be at the expense of the owner or operator whose duty it shall be to **repair or** plug the well and who shall hold harmless the state of New York for all accounts, damages, costs and judgments arising for the **repairing,** plugging or replugging of the well and the surface restoration of the affected land. Primary liability for the expense of such plugging or replugging and first recourse for the recovery thereof shall be to the operator unless a contract for the production, development, exploration or other working of the well, to which the lessor or other grantor of the solution salt rights is a party, shall place such liability on the owner or on the owner of another interest in the land on which the well is situated. When an operator violates any provision of this article, any rule or regulation promulgated thereunder, or any order issued pursuant thereto in reference to **repairing,** plugging or replugging an abandoned **or orphaned** well, the operator may not transfer the operator's responsibility therefor by surrendering the lease. Prior to the commencement of drilling of any well to which this subdivision

applies, the operator shall be required to furnish to the department, and continuously maintain, a bond acceptable to it conditioned upon the performance of said operator's plugging **and surface restoration** responsibilities with respect to said well. Upon the approval of the department, in lieu of such bond, the operator may deposit cash or negotiable bonds of the United States Government of like amount in an escrow account conditioned upon the performance of said operator's plugging **and surface restoration** responsibilities with respect to said well. Any interest accruing as a result of aforementioned escrow deposit shall be the exclusive property of the operator. The aforementioned bonding requirements shall remain the obligation of the original operator regardless of changes in operators unless a subsequent operator has furnished the appropriate bond or substitute as herein provided acceptable to the department and approval for the transfer of the well plugging [~~responsibility~~] **and surface restoration responsibilities** to the subsequent operator has been granted by the department. The failure of any operator to maintain a bond or other financial security as prescribed herein shall be deemed a breach of plugging **and surface restoration** responsibilities and entitle the department to claim the proceeds of the bond or other financial security. Any order issued pursuant to this paragraph may be reviewed upon application of an aggrieved party by means of an order to show cause which order shall be issued by any justice of the supreme court in the judicial district in which any such order applies and shall be returnable on the third succeeding business day following the issuance of such order. Service of such show cause order shall be made upon the regional office of the department for the region in which such order applies, and upon the attorney general by delivery of such order to an assistant attorney general at an office of the attorney general in the county in which venue of the proceeding is designated, or if there is no office of the attorney general within such county, at the office of the attorney general nearest such county. Except as hereinabove specified, the proceeding to review an order under this paragraph shall be governed by article seventy-eight of the civil practice law and rules.

f. (1) In order to satisfy the financial security requirements contained in paragraph e of this subdivision for all wells for which the department [~~either~~] **on or after October first, nineteen hundred sixty-three** shall have issued or shall issue permits to drill**, deepen, convert or plug back** such wells or, on or after June fifth, nineteen hundred seventy-three, shall have issued acknowledgements of notices of intention to drill such wells **or for all wells subject to this article for which requests for transfers of well operatorship, which includes plugging and surface restoration responsibilities, are approved by the department on or after the effective date of the chapter of the laws of two thousand twenty that amended this paragraph,** without in any way affecting any obligation to plug such wells, the operator shall provide a bond or other financial security acceptable 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 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.

e. Enter, take temporary possession of, **repair,** plug or replug any abandoned **or orphaned** well [~~subject to this section~~] as provided in the rules and regulations, whenever the well's owner or operator neglects or refuses to comply with such rules and regulations. Such **repairing,** plugging or replugging by the department shall be at the expense of the owner or operator whose duty it shall be to **repair or** plug the well and who shall hold harmless the state of New York for all accounts, damages, costs and judgments arising from the **repairing,** plugging or replugging of the well and the surface restoration of the affected land.

f. **(1)** Require that the operator furnish to the department, and continuously maintain, a bond or other financial security conditioned upon the satisfactory performance of the operator's plugging **and surface restoration** responsibilities with respect to said [~~well~~] **wells for which the department shall have issued or shall issue permits to drill, deepen, convert or plug back or, for all wells subject to this article for which requests for transfers of well operatorship, which includes plugging and surface restoration responsibilities, are approved by the department on or after the effective date of the chapter of the laws of two thousand twenty that amended this paragraph**. The failure of any operator to maintain a bond or other financial security as prescribed herein shall be deemed a breach of plugging **and surface restoration** responsibilities and entitle the department to claim the proceeds of the bond or other financial security. Such bond or other financial security shall be for an amount as determined [~~pursuant to the provisions of paragraph k of subdivision eight of this section~~] **by and acceptable to the department**.

(2) 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.

g. In addition to the powers provided for in titles one, three, five and thirteen of article seventy-one of this chapter, order an immediate suspension of operations carried on in violation of the oil, gas and solution mining law or any rule or regulation promulgated thereunder or order issued pursuant thereto.

h. Require the immediate reporting of any non-routine incident, including but not limited to casing and drill pipe failures, casing cement failures, fishing jobs, fires, seepages, blowouts and other incidents during drilling, completion, producing, plugging or replugging operations that may affect the health, safety, welfare or property of any person or which may be injurious to plants or animals. The department may require the operator or any agent thereof to record and provide any data which the department believes may be of use for adequate evaluation of a non-routine incident.

i. Require the taking and making of logs, samples, directional surveys and reports on locations, elevations, drilling and production, and

further require filing of such information pursuant to the provisions of the oil, gas and solution mining law. Upon the request of the state geologist, the department shall cause such samples or copies of records and reports to be furnished to the state geologist.

j. Give notice to persons engaged in underground mining operations of the commencement of any phase of geothermal, stratigraphic and brine disposal well operations which may affect the safety of such underground 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, as added by chapter 386 of the laws of 2005, 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 recomplete 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, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, **(a-2) bicycle with electric assist as defined in section one hundred two-c of this article,** (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, and (d) all terrain vehicles as defined in article forty-eight-B of this chapter. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

§ 3. Subparagraph b of paragraph 1 of subdivision (a) of section 1202 of the vehicle and traffic law, as amended by chapter 679 of the laws of 1970, is amended to read as follows:

b. On a sidewalk**, except a bicycle with electric assist as defined in section one hundred two-c of this chapter**;

§ 4. The article heading of article 34 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

OPERATION OF BICYCLES [~~AND~~]**,** PLAY DEVICES **AND BICYCLES WITH ELECTRIC ASSIST**

§ 5. Section 1231 of the vehicle and traffic law, as amended by chapter 694 of the laws of 1995, is amended to read as follows:

§ 1231. Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates **or persons operating bicycles with electric assist; local laws**. **1.** Every person riding a bicycle or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2. (a) Except as provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to paragraph (b) of this subdivision, bicycles with electric assist may only be operated on public highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes. Every person operating a bicycle with electric assist upon a highway or roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special requirements in this article and except as to those provisions of this title which by their nature can have no application.

(b) The governing body of any county, city, town or village may, by local law, ordinance, order, rule or regulation, further regulate the maximum speed, time, place and manner of the operation of a bicycle with electric assist including requiring the use of protective headwear and wearing readily visible reflective clothing or material, and limiting or prohibiting the use thereof in specified areas under the jurisdiction of such county, city, town or village or prohibit entirely the use of bicycles with electric assist within such county, city, town or village. Notwithstanding title eight of this chapter, the governing body of any county, city, town or village shall not authorize the use of bicycles with electric assist upon sidewalks or regulate the parking, standing or stopping of bicycles with electric assist on sidewalks.

§ 6. The vehicle and traffic law is amended by adding a new section 1232-a to read as follows:

§ 1232-a. Operating bicycles with electric assist. 1. Every person operating a bicycle with electric assist shall yield the right of way to pedestrians.

2. Every operator of a bicycle with electric assist shall be sixteen years of age or older.

3. The operation of a class three bicycle with electric assist outside a city having a population of one million or more is prohibited.

4. No person shall operate a class one or class two bicycle with electric assist in excess of twenty miles per hour. No person shall operate a class three bicycle with electric assist in excess of twenty-five miles per hour.

5. No person shall operate a bicycle with electric assist on a sidewalk.

6. A first violation of the provisions of this section shall result in no fine. A second or subsequent violation shall result in a civil fine not to exceed fifty dollars.

§ 7. Subdivision 1 of section 1233 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

1. No person operating a bicycle with electric assist or riding upon any bicycle, coaster, in-line skates, roller skates, skate board, sled, or toy vehicle shall attach the same or himself or herself to any vehicle being operated upon a roadway.

§ 8. Section 1234 of the vehicle and traffic law, as amended by chapter 16 of the laws of 1996, is amended to read as follows:

§ 1234. Riding or operating on roadways, shoulders, bicycle or in-line skate lanes [~~and~~], bicycle or in-line skate paths and lanes reserved for non-motorized vehicles and devices. (a) Upon all roadways, any bicycle, bicycle with electric assist or in-line skate shall be driven or operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a bicycle, bicycle with electric assist or person on in-line skates and a vehicle to travel safely side-by-side within the lane.

(b) Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast. **Persons operating bicycles with electric assist upon a roadway shall ride single file.** Persons riding bicycles or skating or gliding on in-line skates **or operating a bicycle with electric assist** upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skates path, intended for the use of bicycles**, electric personal assistive mobility device, bicycles with electric assist,** or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle [~~or~~]**, electric personal assistive mobility device, bicycle with electric assist,** person on in-line skates, or pedestrian, standing or proceeding along such shoulder, lane or path, persons riding bicycles**, operating bicycles with electric assist,** or skating or gliding on in-line skates shall ride, **operate,** skate, or glide single file. Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall ride, skate, or glide single file when being overtaken by a vehicle.

(c) Any person operating a bicycle**, bicycle with electric assist** or skating or gliding on in-line skates who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 9. Section 1235 of the vehicle and traffic law, as amended by chapter 703 of the laws of 2004, is amended to read as follows:

§ 1235. Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars. **No person operating a bicycle with electric assist shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision.** No person skating or gliding on in-line skates shall carry any package, bundle, or article which obstructs his or her vision in any direction. No person operating a skate board shall carry any package, bundle, or article which obstructs his or her vision in any direction.

§ 10. Section 1236 of the vehicle and traffic law, subdivision (a) as amended by chapter 16 of the laws of 2009 and subdivisions (d) and (e) as added by chapter 887 of the laws of 1976, is amended to read as follows:

§ 1236. Lamps and other equipment on bicycles **and bicycles with electric assist**. (a) Every bicycle **or bicycle with electric assist** when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red or amber light visible to the rear for three hundred feet. Effective July first, nineteen hundred seventy-six, at least one of these lights shall be visible for two hundred feet from each side.

(b) No person shall operate a bicycle **or bicycle with electric assist** unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle **or bicycle with electric assist** shall not be equipped with nor shall any person use upon a bicycle **or bicycle with electric assist** any siren or whistle.

(c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. **Every bicycle with electric assist shall be equipped with a system that enables the operator to bring the device to a controlled stop.**

(d) Every new bicycle shall be equipped with reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel, said tires and reflectors to be of types approved by the commissioner. The reflex reflector mounted on the front wheel shall be colorless or amber, and the reflex reflector mounted on the rear wheel shall be colorless or red.

(e) Every bicycle when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with reflective devices or material meeting the standards established by rules and regulations promulgated by the commissioner; provided, however, that such standards shall not be inconsistent with or otherwise conflict with the requirements of subdivisions (a) and (d) of this section.

§ 11. The section heading of section 1238 of the vehicle and traffic law, as amended by chapter 267 of the laws of 1993, is amended to read as follows:

Passengers on bicycles under one year of age prohibited; passengers and operators under fourteen years of age to wear protective headgear**; operators of class three bicycles with electric assist to wear protective headgear**.

§ 12. Section 1238 of the vehicle and traffic law is amended by adding a new subdivision 5-c to read as follows:

5-c. No person shall ride upon, propel or otherwise operate a class three bicycle with electric assist unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

§ 13. Subdivision 6 of section 1238 of the vehicle and traffic law, as added by chapter 267 of the laws of 1993, paragraph (a) as amended by chapter 402 of the laws of 2001, and paragraph (c) as amended by chapter 703 of the laws of 2004, is amended to read as follows:

6. (a) Any person who violates the provisions of subdivision five, five-a [~~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 or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, **or operating a bicycle with electric assist,** who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance **or bicycle with electric assist** by such person, shall, before leaving the place where the said physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. 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 is a violation.

§ 16. Section 1241 of the vehicle and traffic law, as added by chapter 468 of the laws of 2001, is amended to read as follows:

§ 1241. 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 first degree. 1. Any person age eighteen years or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, **or operating a bicycle with electric assist,** who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance **or bicycle with electric assist** by such person, shall, before leaving the place where the said serious physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

2. 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 first degree is a class B misdemeanor.

§ 17. The vehicle and traffic law is amended by adding a new section 1242 to read as follows:

§ 1242. Operation of a bicycle with electric assist while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall operate a bicycle with electric assist while his or her ability to operate such bicycle with electric assist is impaired by the consumption of alcohol.

(i) A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than three hundred dollars nor more

than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

(ii) A person who operates a bicycle with electric assist in violation of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(iii) A person who operates a bicycle with electric assist in violation of this subdivision after being convicted two or more times of a violation of any subdivision of this section within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) No person shall operate a bicycle with electric assist while he or she has .08 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision five of this section.

(c) No person shall operate a bicycle with electric assist while he or she is in an intoxicated condition.

(d) No person shall operate a bicycle with electric assist while his or her ability to operate such bicycle with electric assist is impaired by the use of a drug as defined by section one hundred fourteen-a of this chapter.

(e) No person shall operate a bicycle with electric assist while his or her ability to operate such bicycle with electric assist is impaired by the combined influence of drugs or of alcohol and any drug or drugs as defined by section one hundred fourteen-a of this chapter.

(f) (i) A violation of paragraph (b), (c), (d), or (e) of this subdivision shall be a misdemeanor and shall be punishable by imprisonment in a penitentiary or county jail for not more than one year, or by a fine of not less than five hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(ii) A person who operates a bicycle with electric assist in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision, or of operating a bicycle with electric assist while intoxicated or while under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a period of imprisonment as provided in the penal law, or by a fine of not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

(iii) A person who operates a bicycle with electric assist in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been twice convicted of a violation of any of such paragraph (b), (c), (d) or (e) of this subdivision or of operating a bicycle with electric assist while intoxicated or under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class D felony and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprison-

ment as provided in the penal law, or by both such fine and imprisonment.

2. Sentencing limitations. Notwithstanding any provision of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge or a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section nor shall he or she impose a sentence of conditional discharge unless such conditional discharge is accompanied by a sentence of a fine as provided in this section.

3. Sentencing: previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

4. Arrest and testing. (a) Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when he or she has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision, police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime.

(b) Breath test for operators of bicycles with electric assist. Every person operating a bicycle with electric assist which has been involved in an accident or which is operated in violation of any of the provisions of this section which regulate the manner in which a bicycle with electric assist is to be properly operated shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section.

5. Chemical tests. (a) Any person who operates a bicycle with electric assist shall be requested to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva for the purpose of determining the alcoholic or drug content of his or her blood, provided that such test is administered at the direction of a police officer: (i) having reasonable cause to believe such person to have been operating in violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of

subdivision one of this section and within two hours after such person has been placed under arrest for any such violation or (ii) within two hours after a breath test as provided in paragraph (b) of subdivision four of this section indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by 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 a bicycle with electric assist 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 a bicycle with electric assist in violation of any provision of this chapter, local law, ordinance, order, rule or regulation which regulates the manner in which a bicycle with electric assist 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 a bicycle with electric assist 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 a bicycle with electric assist:

(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 a bicycle with electric assist 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 a bicycle with electric assist 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 a bicycle with electric assist 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) A bicycle with electric assist operator may be convicted of a violation of paragraphs (a), (b), (c), (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 such subdivision one and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of subdivision one of this section is not warranted, he or she may consent, and the court may allow, a disposition by plea of guilty to another charge in satisfaction of such charge.

8. Enforcement upon crash. Notwithstanding any provision of this section, no part of this section may be enforced unless in conjunction with a crash involving an operator of a bicycle with electric assist. For the purposes of this subdivision, "crash" shall mean colliding with a vehicle, person, building or other object.

§ 18. This act shall take effect immediately.

PART YY

Section 1. Section 13 of part U1 of chapter 62 of the laws of 2003, amending the vehicle and traffic law and other laws relating to increasing certain motor vehicle transaction fees, as amended by section 1 of part A of chapter 58 of the laws of 2017, is amended to read as follows:

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

§ 2. Section 2 of part B of chapter 84 of the laws of 2002, amending the state finance law relating to the costs of the department of motor vehicles, as amended by section 2 of part A of chapter 58 of the laws of 2015, is amended to read as follows:

§ 2. This act shall take effect April 1, 2002; provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2002[~~; provided further, however, that this act shall expire and be deemed repealed on April 1, 2020~~].

§ 3. This act shall take effect immediately.

PART ZZ

Section 1. Section 5 of 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, as amended by section 3 of part D of chapter 58 of the laws of 2016, is amended to read as follows:

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall expire and be deemed repealed April 1, [~~2020~~] 2022; provided that any rules and regulations necessary to

implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.

§ 2. This act shall take effect immediately.

PART AAA

Section 1. The vehicle and traffic law is amended by adding a new section 114-e to read as follows:

§ 114-e. Electric scooter. Every two-wheeled device that is no more than sixty inches in length, twenty-six inches in width, and fifty-five 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 author-

ized 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.

8. A first violation of the provisions of this section shall result in no fine. A second or subsequent violation shall result in a civil fine not to exceed fifty dollars.

§ 1283. Clinging to vehicles. 1. No person operating an electric scooter shall attach such scooter, or himself or herself to any vehicle being operated upon a roadway.

2. No vehicle operator shall knowingly permit any person to attach any electric scooter or himself or herself to such operator's vehicle in violation of subdivision one of this section.

§ 1284. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices. 1. Upon all roadways, any electric scooter shall be operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing to turn left at an intersection or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge of the roadway. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skaters, pedestrians, animals, surface hazards and traffic lanes too narrow for an electric scooter and a vehicle to travel safely side-by-side within the lane.

2. Persons operating electric scooters upon a roadway shall ride single file. Persons operating electric scooters upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path, intended for the use of bicycles, electric personal assistive mobility devices, electric scooters, or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, electric scooter, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating electric scooters shall operate such scooter in single file.

3. Any person operating an electric scooter who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

§ 1285. Lamps and other equipment. 1. Every electric scooter when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red light visible to the rear for three hundred feet. At least one of these lights shall be visible for two hundred feet from each side.

2. No person shall operate an electric scooter unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that such scooter shall not be equipped with nor shall any person use upon such scooter any siren or whistle.

3. Every electric scooter shall be equipped with a system that enables the operator to bring the device to a controlled stop.

§ 1286. Operators to wear protective headgear. 1. No person sixteen or seventeen years of age shall ride upon, propel or otherwise operate an electric scooter unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.

2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars.

3. The court shall waive any fine for which a person who violates the provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution program. Such waiver of fine shall not apply to a second or subsequent conviction under subdivision one of this section.

4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

§ 1287. Leaving the scene of an incident involving an electric scooter without reporting. 1. (a) Any person eighteen years of age or older operating an electric scooter who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person shall, before leaving the place where such physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

(b) A violation of paragraph (a) of this subdivision shall be a violation.

2. (a) Any person eighteen years of age or older operating an electric scooter who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person shall, before leaving the place where such serious physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police

officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer.

(b) A violation of paragraph (a) of this subdivision shall be a class B misdemeanor.

§ 1288. Operation of an electric scooter while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall operate an electric scooter while his or her ability to operate such electric scooter is impaired by the consumption of alcohol.

(i) A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than three hundred dollars nor more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment.

(ii) A person who operates an electric scooter in violation of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(iii) A person who operates an electric scooter in violation of this subdivision after being convicted two or more times of a violation of any subdivision of this section within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not less than seven hundred fifty dollars nor more than fifteen hundred dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) No person shall operate an electric scooter while he or she has .08 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision five of this section.

(c) No person shall operate an electric scooter while he or she is in an intoxicated condition.

(d) No person shall operate an electric scooter while his or her ability to operate such electric scooter is impaired by the use of a drug as defined by section one hundred fourteen-a of this chapter.

(e) No person shall operate an electric scooter while his or her ability to operate such electric scooter is impaired by the combined influence of drugs or of alcohol and any drug or drugs as defined by section one hundred fourteen-a of this chapter.

(f)(i) A violation of paragraph (b), (c), (d) or (e) of this subdivision shall be a misdemeanor and shall be punishable by imprisonment in a penitentiary or county jail for not more than one year, or by a fine of not less than five hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

(ii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision, or of operating an electric scooter while intoxicated or while under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a period of imprisonment as provided in the penal law, or by a fine of not less than one thousand dollars nor more than five thousand dollars, or by both such fine and imprisonment.

(iii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been twice convicted of a violation of any of such paragraph (b), (c), (d) or (e) of this subdivision or of operating an electric scooter while intoxicated or under the influence of drugs, or while under the combined influence of drugs or of alcohol and any drug or drugs, within the preceding ten years, shall be guilty of a class D felony and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

2. Sentencing limitations. Notwithstanding any provision of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section nor shall he or she impose a sentence of conditional discharge unless such conditional discharge is accompanied by a sentence of a fine as provided in this section.

3. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years.

4. Arrest and testing. (a) Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when he or she has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime.

(b) Breath test for operators of electric scooters. Every person operating an electric scooter which has been involved in an accident or which is operated in violation of any of the provisions of this section which regulate the manner in which an electric scooter is to be properly operated shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section.

5. Chemical tests. (a) Any person who operates an electric scooter shall be requested to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva for the purpose of determining the alcoholic or drug content of his or her blood, provided that such test is administered at the direction of a police officer: (i) having reasonable cause to believe such person to have been operating in violation of this subdivision or paragraph (a), (b), (c), (d) or (e) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation or (ii) within two hours after a breath test as provided in paragraph (b) of subdivision four of this section indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by 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 and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of subdivision one of this section is not warranted, he or she may consent, and the court may allow, a disposition by a plea of guilty to another charge in satisfaction of such charge.

8. Enforcement upon crash. Notwithstanding any provision of this section, no part of this section may be enforced unless in conjunction with a crash involving an operator of an electric scooter. For the purposes of this subdivision, crash shall mean falling to the ground or colliding with a vehicle, person, building or other object.

§ 5. This act shall take effect immediately.

PART BBB

Section 1. Section 410 of the economic development law is REPEALED.

§ 2. Section 3102-b of public authorities law, as added by chapter 562 of the laws of 1982 and as renumbered by chapter 291 of the laws of 1990, the opening paragraph as amended by chapter 616 of the laws of 1991, paragraph (a) of subdivision 1, subdivision 3 and paragraph (a) of subdivision 6 as amended by chapter 191 of the laws of 2010, subdivisions 5 and 6 as added by chapter 828 of the laws of 1987, is amended to read as follows:

§ 3102-b. Centers for advanced technology. In order to encourage greater collaboration between private industry and the universities of the state in the development and application of new technologies, the [~~foundation~~] department of economic development (hereinafter "department") is authorized to designate for advanced technology such areas as integrated electronics, optics, biotechnology, telecommunications, automation and robotics, electronics packaging, imaging technology and others identified by the [~~foundation~~] department as having significant potential for economic growth in New York, or in which the application of new technologies could significantly enhance the productivity and stability of New York businesses. Such designations shall be made in accordance with the standards and criteria set forth in subdivision two of this section. Centers so designated shall be eligible for support from the [~~foundation~~] department in the manner provided for in subdivision three of this section, and for such additional support as may otherwise be provided by law.

1. As used in this section:

(a) "center for advanced technology" or "center" means a university or university-affiliated research institute or a consortium of such institutions, designated by the [~~foundation~~] department, which conducts a

continuing program of basic and applied research, development, and technology commercialization in one or more technological areas, in collaboration with and through the support of private business and industry; and

(b) "applicant" means a university or university-affiliated research institute or a consortium of such institutions which request designation as a center in accordance with such requirements as are established by the [~~foundation~~] **department** for this purpose. **For the purposes of this subdivision, universities, university-affiliated research institutes or a consortium of such institutions designated as centers of excellence under section four hundred ten of the economic development law at the 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, but are not limited to, helping incumbent workers expand their skill sets through short courses, seminars, and workshops; providing industry-driven research assistant opportunities for students, and aiding in the development of undergraduate and graduate courses in the center's technology focus to help ensure that students are trained to meet the needs of industry;

(v) centers may use not more then twenty-five percent of indirect costs towards any match requirements.

(b) The amount provided by the [~~foundation~~] department shall be made in accordance with the following:

(i) for the academic year in which it is first funded as a designated center, and the five subsequent years, the amount provided by the [~~foundation~~] department to a center shall be matched equally by the center;

(ii) beginning in the sixth academic year following the academic year in which a center is first funded as a designated center and for each academic year thereafter, amounts provided by the [~~foundation~~] department of up to seven hundred fifty thousand dollars shall be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least the percentage set forth herein: in the sixth year, one hundred twenty percent; in the seventh year, one hundred forty percent; in the eighth year, one hundred sixty percent; in the ninth year, one hundred eighty percent; in the tenth year and each year thereafter, two hundred percent;

(iii) beginning in the ninth academic year following the academic year in which a center is first funded as a designated center, the [~~foundation~~] department shall evaluate such center's area of advanced technology to determine whether it has continued significant potential for enhancing economic growth in New York, or whether the application of technologies in the area could significantly enhance the productivity and stability of New York businesses;

(iv) upon a finding by the [~~foundation~~] department that an area of advanced technology has continued significant potential for enhancing economic growth in New York, or that the application of technologies in the area could significantly enhance the productivity and stability of New York businesses, the [~~foundation~~] department will initiate a redesignation process in accordance with the standards and criteria set forth in paragraph (b) of subdivision two and in accordance with paragraphs (c) and (d) of subdivision two of this section.

(1) In the event a new center is selected in the redesignation process, the [~~foundation~~] department shall provide funds to such new center in accordance with the funding match requirements set forth in subparagraphs (i) and (ii) of paragraph (a) of this subdivision.

(2) In the event a previously designated center is redesignated in the same area of technology, which redesignation is effective for the tenth academic year following the first academic year of both designation and funding, then, in that year and in each year thereafter, the [~~foundation~~] **department** shall provide funds of up to seven hundred fifty thousand dollars to be matched equally by the center, amounts in excess of seven hundred fifty thousand dollars shall be matched by the center in amounts of at least two hundred percent.

(3) In the event a currently designated center is not selected in the redesignation process for an additional term, or upon a finding by the [~~foundation~~] **department** that the area of advanced technology does not have significant potential for enhancing economic growth in New York, or upon a finding that the application of technologies in that area would not significantly enhance the productivity and stability of New York businesses, then the [~~foundation~~] **department** shall, in the tenth academic year following such center's first both designation and funding, which year shall be the final year of funding for such center, provide an amount of up to five hundred thousand dollars.

(c) Continued funding of the operations of each center shall be based upon a showing that: the center continues to comply with the criteria established by the [~~foundation~~] **department** pursuant to paragraph (b) of subdivision two of this section; a demonstration of assistance to small businesses in New York state through research, technology transfer or other means as approved by the [~~foundation~~] **department**; evidence of partnerships with other appropriate entities to develop outreach networks and ensure that companies receive access to appropriate federal funding for technology development and commercialization as well as non-research assistance such as general business consulting. Appropriate partners are those with which the center demonstrates a relationship that enhances and advances the center's ability to aid economic growth in New York state; and compliance with the rules, regulations and guidelines of the [~~foundation~~] **department**; and, compliance with any contracts between the [~~foundation~~] **department** and the designated center.

(d) Each center shall report on its activities to the [~~foundation~~] **department** in a manner and according to the schedule established by the [~~foundation~~] **department**, and shall provide such additional information as the [~~foundation~~] **department** may require provided, that quantifiable economic development impact measures are not restricted to any period less than five years and that centers provide a full description of all non-quantifiable measures. The [~~foundation~~] **department** shall evaluate center operations using methods such as site visits, reporting of specified information and peer review evaluations using experts in the field of technology in which the center was designated. The [~~foundation~~] **department** shall notify each center of the results of its evaluations and findings of deficiencies in the operation of such center or its research, education, or technology commercialization activities and shall work with such centers to remedy such findings. If such factors are not remedied, the [~~foundation~~] **department** may withdraw the state funding support, in whole or in part, or withdraw the center designation.

(e) In order to encourage that the results of center research benefit New York state, designation and continued funding of each center shall be contingent upon each center's establishing within its licensing guidelines the following: after payment of the inventor's share, a reduced payment due to the university of any royalty, income or other consideration earned from the license or sale of intellectual property

rights created or developed at, or through the use of, the facilities of the center by any person or entity if the manufacturing or use resulting from such intellectual property rights occurs within New York state. The [~~foundation~~] **department** shall promulgate rules and regulations regarding the provisions of the licensing guidelines described herein as they apply to such reduced payment, and such provisions shall be subject to the approval of the [~~foundation~~] **department**.

4. From such funds as may be appropriated for this purpose by the legislature, the [~~foundation~~] **department** may provide grants to any one university or university-affiliated research institution for purposes of planning and program development aimed at enabling such university or university-affiliated research institution to qualify for designation as a center. Such grants shall be awarded on a competitive basis, and shall be available only to those applicants which in the judgment of the [~~foundation~~] **department** may reasonably be expected to be designated as centers. No applicant shall receive more than one such grant.

5. (a) From such funds as may be appropriated for the purpose of incentive grants or other funds which may be available from the [~~foundation~~] **department** to enhance center activities in areas of crucial interest in the state's economic development, the [~~foundation~~] **department** may provide grants, on a competitive basis, to centers for projects including, but not limited to, those which:

(i) explore new technologies with commercial application conducted jointly by two or more centers or a center and non-center university, college or community college;

(ii) are aimed at enhancing or accelerating the process of bringing new products, particularly those under development by new small businesses, to the marketplace; or

(iii) increase technology transfer projects with the state's mature manufacturing industries in applying technology in their manufacturing processes or for new product development.

(b) State support for incentive grants may be matched on an individual basis by the [~~foundation~~] **department**, which may consider the type of project and the availability of amounts from private, university and governmental, other than state, sources.

6. (a) The [~~foundation~~] **department** shall make an annual report of the centers for advanced technology program to the governor and the legislature not later than September first of each year. Such report shall include, but not be limited to, the results of the [~~foundation's~~] **department's** evaluation of each center, a description of the achievement of each center, any deficiencies in the operation of each center or its research, education and technology commercialization activities, remedial actions recommended by the [~~foundation~~] **department**, remedial actions taken by each center, a description of the small business assistance provided by each center, a description of any incentive grant program awarded a grant by the [~~foundation~~] **department** and the achievements of such program, and the amount of financial assistance provided by the [~~foundation~~] **department** and the level of matching funds provided by each center and the uses of such monies.

(b) Annual reports shall include a discussion of any fields of technology that the [~~foundation~~] **department** has identified as having significant potential for economic growth or improved productivity and stability of New York businesses and in which no center for advanced technology has been designated and recommendations of the [~~foundation~~] **department** as to actions that should be taken.

§ 3. This act shall take effect immediately; provided, however that section one of this act shall not take effect until June 30, 2021.

PART CCC

Section 1. Subsections (e) and (g) of section 7002 of the insurance law, as amended by chapter 188 of the laws of 2003, are amended to read as follows:

(e) "Industrial insured" means an insured:

(1) whose net worth exceeds one hundred million dollars;

(2) who is a member of a holding company system whose net worth exceeds one hundred million dollars;

(3) who is the metropolitan transportation authority and its statutory subsidiaries. When filing an application to form a pure captive insurance company the metropolitan transportation authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; [~~or~~]

(4) **who is the power authority of the state of New York and any statutory subsidiary or affiliate thereof. When filing an application to form a pure captive insurance company the power authority shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly; or**

(5) who is a city with a population of one million or more. When filing an application to form a pure captive insurance company, a city with a population of one million or more shall submit written notice of such filing to the governor, the temporary president of the senate and the speaker of the assembly.

(g) "Industrial insured group" means any group of unaffiliated industrial insureds that are engaged in similar or related businesses or activities, however, the metropolitan transportation authority**, the power authority of the state of New York and any statutory subsidiary or affiliate thereof** and cities with a population of one million or more shall not be a member of an industrial insured group, and that collectively:

(1) own, control or hold with power to vote all of the outstanding voting shares of stock of a group captive insurance company incorporated as a stock insurer; or

(2) represent one hundred percent of the voting members of a group captive insurance company organized as a mutual insurer.

§ 2. Section 1005 of the public authorities law is amended by adding a new subdivision 28 to read as follows:

28. The authority may establish a subsidiary corporation for the purpose of forming a pure captive insurance company as provided in section seven thousand two of the insurance law. The members of such subsidiary corporation of the authority shall be the same persons holding the offices of members of the authority. Such subsidiary corporation shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority's property, functions and activities. The subsidiary corporation of the authority shall be subject to suit in accordance with section one thousand seventeen of this title. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

§ 3. Subdivision (a) of section 1500 of the tax law, as amended by section 21 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) The term "insurance corporation" includes a corporation, association, joint stock company or association, person, society, aggregation or partnership, by whatever name known, doing an insurance business, and, notwithstanding the provisions of section fifteen hundred twelve of this article, shall include (1) a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, (2) the state insurance fund and (3) a corporation, association, joint stock company or association, person, society, aggregation or partnership doing an insurance business as a member of the New York insurance exchange described in section six thousand two hundred one of the insurance law. The definition of the "state insurance fund" contained in this subdivision shall be limited in its effect to the provisions of this article and the related provisions of this chapter and shall have no force and effect other than with respect to such provisions. The term "insurance corporation" shall also include a captive insurance company doing a captive insurance business, as defined in subsections (c) and (b), respectively, of section seven thousand two of the insurance law; provided, however, "insurance corporation" shall not include the metropolitan transportation authority, **the power authority of New York or any statutory subsidiary or affiliate thereof,** or a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments, whether state or local; and provided further "insurance corporation" does not include any combinable captive insurance company. The term "insurance corporation" shall also include an unauthorized insurer operating from an office within the state, pursuant to paragraph five of subsection (b) of section one thousand one hundred one and subsection (i) of section two thousand one hundred seventeen of the insurance law. The term "insurance corporation" also includes a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law.

§ 4. Subdivision (a) of section 1502-b of the tax law, as amended by section 22 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) In lieu of the taxes and tax surcharge imposed by sections fifteen hundred one, fifteen hundred two-a, fifteen hundred five-a, and fifteen hundred ten of this article, every captive insurance company licensed by the superintendent of financial services pursuant to the provisions of article seventy of the insurance law, other than the metropolitan transportation authority**, the power authority of New York or any statutory subsidiary or affiliate thereof,** and a public benefit corporation or not-for-profit corporation formed by a city with a population of one million or more pursuant to subsection (a) of section seven thousand five of the insurance law, each of which is expressly exempt from the payment of fees, taxes or assessments whether state or local, and other than combinable captive insurance company, shall, for the privilege of exercising its corporate franchise, pay a tax on (1) all gross direct premiums, less return premiums thereon, written on risks located or resident in this state and (2) all assumed reinsurance premiums, less return premiums thereon, written on risks located or resident in this state. The rate of the tax imposed on gross direct premiums shall be four-tenths of one percent on all or any part of the first twenty million dollars of premiums, three-tenths of one percent on all or any part of the second twenty million dollars of premiums, two-tenths of one

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.

PART DDD

Section 1. Legislative findings and intent. The legislature hereby finds, determines and declares the following:

The planning, development and operation of the Hudson River Park as a public park continues to be a matter of importance to the state. As detailed in the 1998 law creating the park and the trust, chapter 592 of the laws of 1998, the creation, development, operation and maintenance of the Hudson River Park will enhance and protect the natural, cultural and historic aspects of the Hudson River, enhance and afford quality public access to the river, allow for an array of cultural and recreational programs and provide a host of other public benefits. The changes to the 1998 law by this act are intended to, after decades of delay and inaction, finally effectuate the park's general project plan as defined in chapter 592 of the laws of 1998, which continues to be the operative planning document guiding park development, protection and reuse of a portion of the Hudson River waterfront in lower Manhattan south of 59th street, and are intended to ensure the realization of that vision and the park's continuing viability for years to come. Nothing herein is intended to alter or override any prior determinations concerning park planning, development or operation.

§ 2. Paragraph (c) of subdivision 9 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as amended by chapter 517 of the laws of 2013, is amended to read as follows:

(c) [~~The city of New York shall use best efforts to relocate the tow pound on Pier 76. Subsequent to relocation of the tow pound, the city of New York shall promptly convey to the trust a possessory interest in Pier 76 consistent with such interest previously conveyed with respect to other portions of the park, provided that at least fifty percent of the Pier 76 footprint shall be used for park uses that are limited to passive and active open space and which shall be contiguous to water and provided further that the remaining portion shall be for park/commercial use. Upon such conveyance, Pier 76 shall become part of the park.~~] **(i) On or before December 31, 2020, the city of New York shall convey to the trust a possessory interest in Pier 76 consistent with such interest previously conveyed with respect to other portions of the park. Upon such conveyance, Pier 76 shall become part of the park and following redevelopment at least fifty percent of the Pier 76 footprint shall be used for park uses that are limited to passive and active open space and which shall be contiguous to water; and provided further that the remaining portion shall be for park/commercial use. (ii) The city of New York shall, prior to December 31, 2020, cease using Pier 76 for any**

purposes. Should the city of New York continue to occupy Pier 76 for any purpose subsequent to the conveyance of December 31, 2020, the city of New York shall (A) compensate the trust in the amount of twelve million dollars, and (B) beginning February 1, 2021, pay rent in the amount of three million dollars for each complete or partial month of occupancy. (iii) On or after the effective date of the chapter of the laws of 2020 which amended this paragraph, the trust shall be entitled to reasonable access to Pier 76 for the purpose of conducting assessments and inspections necessary to further redevelopment of Pier 76 following its inclusion in the park.

§ 3. This act shall take effect immediately.

PART EEE

Section 1. Section 5 of chapter 451 of the laws of 2017, enacting the New York Buy American Act, is amended to read as follows:

§ 5. This act shall take effect April 1, 2018 and shall apply to any state contracts executed and entered into on or after such date and shall exclude such contracts that have been previously awarded or have pending bids or pending requests for proposals issued as of April 1, 2018, and shall not apply to projects that have commenced project design and environmental studies prior to such date[~~; provided, however, that this act shall expire and be deemed repealed April 15, 2020~~].

§ 2. This act shall take effect immediately.

PART FFF

Section 1. The labor law is amended by adding a new section 224-a to read as follows:

§ 224-a. Prevailing wage requirements applicable to construction projects performed under private contract. 1. Subject to the provisions of this section, each "covered project" as defined in this section shall be subject to prevailing wage requirements in accordance with section two hundred twenty and two hundred twenty-b of this article. A "covered project" shall mean construction work done under contract which is paid for in whole or in part out of public funds as such term is defined in this section where the amount of all such public funds, when aggregated, is at least thirty percent of the total construction project costs and where such project costs are over five million dollars except as provided for by section two hundred twenty-four-c of this article.

2. For purposes of this section, "paid for in whole or in part out of public funds" shall mean any of the following:

a. The payment of money, by a public entity directly to or on behalf of the contractor, subcontractor, developer or owner that is not subject to repayment;

b. The savings achieved from fees, rents, interest rates, or other loan costs, or insurance costs that are lower than market rate costs; savings from reduced taxes as a result of tax credits, tax abatements, tax exemptions or tax increment financing; and any other savings from reduced, waived, or forgiven costs that would have otherwise been at a higher or market rate but for the involvement of the public entity;

c. Money loaned by the public entity that is to be repaid on a contingent basis; or

d. Credits that are applied by the public entity against repayment of obligations to the public entity.

3. For purposes of this section, "paid for in whole or in part out of public funds" shall not include:

a. Benefits under section four hundred twenty-one-a of the real property tax law;

b. Funds that are not provided primarily to promote, incentivize, or ensure that construction work is performed, which would otherwise be captured in subdivision two of this section;

c. Funds used to incentivize or ensure the development of a comprehensive sewage system, including connection to existing sewer lines or creation of new sewage lines or sewer capacity, provided, however, that such work shall be deemed to be a public work covered under the provisions of this article;

d. tax benefits provided for projects the value of which are not able to be calculated at the time the work is to be performed; and

e. any other public monies, credits, savings or loans, determined by the public subsidy board created in section two hundred twenty-four-c of this article as exempt from this definition.

4. For purposes of this section "covered project" shall not include any of the following:

a. Construction work on one or two family dwellings where the property is the owner's primary residence, or construction work performed on property where the owner of the property owns no more than four dwelling units;

b. Construction work performed under a contract with a not-for-profit corporation as defined in section one hundred two of the not-for-profit corporation law, other than a not-for-profit corporation formed exclusively for the purpose of holding title to property and collecting income thereof or a local development corporation formed pursuant to section fourteen hundred eleven of the not-for-profit corporation law, where the not-for-profit corporation has gross annual revenue and support less than five million dollars;

c. Construction work performed on a multiple residence and/or ancillary amenities or installations that is wholly privately owned in any of the following circumstances except as provided for by section two hundred twenty-four-c of this article:

(i) where no less than thirty percent of the residential units are affordable for households up to eighty percent of the area median income, provided that area median income shall be adjusted for family size, as calculated by the United States department of housing and urban development, provided that the period of affordability for a residential unit deemed affordable under the provisions of this paragraph shall be for no less than fifteen years from the date of construction; or

(ii) where no less than thirty-five percent of the residential units involves the provision of supportive housing services for vulnerable populations;

(iii) where construction work is performed on a building paid for in whole or in part out of public funds on affordable units for purposes of ensuring that the affordable units are created or retained and are subject to a regulatory agreement with a local, state, or federal governmental entity; or

(iv) any other affordable or subsidized housing as determined by the public subsidy board established by section two hundred twenty-four-c of this article.

d. Construction work performed on a manufactured home park as defined in paragraph three of subdivision a of section two hundred thirty-three of the real property law where the manufactured home park is subject to

a regulatory agreement with a local, state, or federal governmental entity for no less than fifteen years;

e. Construction work performed under a pre-hire collective bargaining agreement between an owner or contractor and a bona fide building and construction trade labor organization which has established itself as the collective bargaining representative for all persons who will perform work on such a project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor organization can perform work on such a project, or construction work performed under a labor peace agreement, project labor agreement, or any other construction work performed under an enforceable agreement between an owner or contractor and a bona fide building and construction trade labor organization;

f. Construction work performed on projects funded by section sixteen-n of the urban development corporation act or the downtown revitalization initiative;

g. Construction work and engineering and consulting services performed in connection with the installation of a renewable energy system, renewable heating or cooling system, or energy storage system, with a capacity equal to or under five megawatts alternating current;

h. Construction work performed on supermarket retail space built or renovated with tax incentives provided under the food retail expansion to support health (FRESH) program through the New York city industrial development agency;

i. Construction work performed for interior fit-outs and improvements under ten thousand square feet through small business incubation programs operated by the New York city economic development corporation;

j. Construction work on space to be used as a school under twenty thousand square feet, pursuant to a lease from a private owner to the New York city department of education and the school construction authority; or

k. Construction work performed on projects that received tax benefits related to brownfield remediation, brownfield redevelopment, or historic rehabilitation pursuant to sections twenty-one, twenty-two, one hundred eighty-seven-g or one hundred eighty-seven-h of the tax law, subdivisions seventeen, eighteen, or twenty-six of section two hundred ten-B of the tax law, subsections (dd), (ee), (oo) or (pp) of section six hundred six of the tax law, or subdivisions (u), (v) or (y) of section fifteen hundred eleven of the tax law.

5. For purposes of this section, "public entity" shall include, but shall not be limited to, the state, a local development corporation as defined in subdivision eight of section eighteen hundred one of the public authorities law or section fourteen hundred eleven of the not-for-profit corporation law, a municipal corporation as defined in section one hundred nineteen-n of the general municipal law, an industrial development agency formed pursuant to article eighteen-A of the general municipal law or industrial development authorities formed pursuant to article eight of the public authorities law, and any state, local or interstate or international authorities as defined in section two of the public authorities law; and shall include any trust created by any such entities.

6. For purposes of this section, "construction" means work which shall be as defined by the public subsidy board to require payment of prevailing wage, and which may involve the employment of laborers, workers, or mechanics.

7. For purposes of this section and section two hundred twenty-four-b of this article, the "fiscal officer" shall be deemed to be the commissioner.

8. The enforcement of any construction work deemed to be a covered project pursuant to this section, and any additional requirements, shall be subject, in addition to this section, only to the requirements of sections two hundred twenty, two hundred twenty-four-b, two hundred twenty-four-c, and two hundred twenty-b of this article and within the jurisdiction of the fiscal officer; provided, however, nothing contained in this section shall be deemed to construe any covered project as otherwise being considered public work pursuant to this article; and further provided:

a. The owner or developer of such covered project shall certify under penalty of perjury within five days of commencement of construction work whether the project at issue is subject to the provisions of this section through the use of a standard form developed by the fiscal officer.

b. The owners or developers of a property who are undertaking a project under private contract, may seek guidance from the public subsidy board contained in section two hundred twenty-four-c of this article, and such board may render an opinion as to whether or not the project is a covered project within the meaning of this article. Any such determination shall not be reviewable by the fiscal officer, nor shall it be reviewable by the department pursuant to section two hundred twenty of this article.

c. The owner or developer of a covered project shall be responsible for retaining original payroll records in accordance with section two hundred twenty of this article for a period of six years from the conclusion of such work. All payroll records maintained by an owner or developer pursuant to this section shall be subject to inspection on request of the fiscal officer. Such owner or developer may authorize the prime contractor of the construction project to take responsibility for retaining and maintaining payroll records, but will be held jointly and severally liable for any violations of such contractor. All records obtained by the fiscal officer shall be subject to the Freedom of Information Law.

d. Each public entity providing any of the public funds listed in subdivision two of this section to an owner, developer, contractor or subcontractor of a project shall identify the nature and dollar value of such funds and whether any such funds are excluded under subdivision three of this section and shall so notify the recipient of such funds of such determination and of their obligations under paragraph a of this subdivision.

e. The fiscal officer may issue rules and regulations governing the provisions of this section. Violations of this section shall be grounds for determinations and orders pursuant to section two hundred twenty-b of this article.

9. Each owner and developer subject to the requirements of this section shall comply with the objectives and goals of minority and women-owned business enterprises pursuant to article fifteen-A of the executive law and service-disabled veteran-owned businesses pursuant to article seventeen-B of the executive law. The department in consultation with the directors of the division of minority and women's business development and of the division of service-disabled veterans' business development shall make training and resources available to assist minority and women-owned business enterprises and service-disabled veteran-

owned business enterprises on covered projects achieve and maintain compliance with prevailing wage requirements. The department shall make such training and resources available online and shall afford minority and women-owned business enterprises and service-disabled veteran-owned business enterprises an opportunity to submit comments on such training.

10. a. The fiscal officer shall report to the governor, the temporary president of the senate, and the speaker of the assembly by July first, two thousand twenty-two, and annually thereafter, on the participation of minority and women-owned business enterprises in relation to covered projects and contracts for public work subject to the provisions of this section and section two hundred twenty of this article respectively as well as the diversity practices of contractors and subcontractors employing laborers, workers, and mechanics on such projects.

b. Such reports shall include aggregated data on the utilization and participation of minority and women-owned business enterprises, the employment of minorities and women in construction-related jobs on such projects, and the commitment of contractors and subcontractors on such projects to adopting practices and policies that promote diversity within the workforce. The reports shall also examine the compliance of contractors and subcontractors with other equal employment opportunity requirements and anti-discrimination laws, in addition to any other employment practices deemed pertinent by the commissioner.

c. The fiscal officer may require any owner or developer to disclose information on the participation of minority and women-owned business enterprises and the diversity practices of contractors and subcontractors involved in the performance of any covered project. It shall be the duty of the fiscal officer to consult and to share such information in order to effectuate the requirements of this section.

11. If construction work is not deemed to be a covered project, whether by virtue of an exclusion of such project under subdivision four of this section, or by virtue or not receiving sufficient public money to be deemed "paid for in whole or in part out of public funds", such project shall not be subject to the requirements of sections two hundred twenty and two hundred twenty-b of this article.

§ 2. The labor law is amended by adding two new sections 224-b and 224-c to read as follows:

§ 224-b. Stop-work orders. Where a complaint is received pursuant to this article, or where the fiscal officer upon his or her own investigation, finds cause to believe that any person, in connection with the performance of any contract for public work pursuant to section two hundred twenty of this article or any covered project pursuant to section two hundred twenty-four-a of this article, has substantially and materially failed to comply with or intentionally evaded the provisions of this article, the fiscal officer may notify such person in writing of his or her intention to issue a stop-work order. Such notice shall (i) be served in a manner consistent with section three hundred eight of the civil practice law and rules; (ii) notify such person of his or her right to a hearing; and (iii) state the factual basis upon which the fiscal officer has based his or her decision to issue a stop-work order. Any documents, reports, or information that form a basis for such decision shall be provided to such person within a reasonable time before the hearing. Such hearing shall be expeditiously conducted.

Following the hearing, if the fiscal officer issues a stop-work order, it shall be served by regular mail, and a second copy may be served by telefacsimile or by electronic mail, with service effective upon receipt of any such order. Such stop-work order shall also be served with regard

to a worksite by posting a copy of such order in a conspicuous location at the worksite. The order shall remain in effect until the fiscal officer directs that the stop-work order be removed, upon a final determination on the complaint or where such failure to comply or evade has been deemed corrected. If the person against whom such order is issued shall within thirty days after issuance of the stop-work order makes an application in affidavit form for a redetermination review of such order the fiscal officer shall make a decision in writing on the issues raised in such application. The fiscal officer may direct a conditional release from a stop-work order upon a finding that such person has taken meaningful and good faith steps to comply with the provisions of this article.

§ 224-c. Public subsidy board. 1. A board on public subsidies, hereinafter "the board", is hereby created, to consist of eleven members. The eleven members shall be appointed by the governor as follows: one member upon the recommendation of the temporary president of the senate, one member upon the recommendation of the speaker of the assembly, the commissioner, the president of the empire state development corporation, the director of the division of the budget, one person representing employees in the construction industry, and one person representing employers in the construction industry. The commissioner shall act as the chair. The members shall serve at the pleasure of the authority recommending, designating, or otherwise appointing such member and shall serve without salary or compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

2. The board shall meet on an as needed basis and shall have the power to conduct public hearings. The board may also consult with employers and employees, and their respective representatives, in the construction industry and with such other persons, including the commissioner, as it shall determine. No public officer or employee appointed to the board shall forfeit any position or office by virtue of appointment to such board. Any proceedings of the board which relate to a particular individual or project shall be confidential.

3. The board may examine and make recommendations which shall have the full force and effect of law, regarding the following:

(a) the minimum threshold percentage of public funds set forth in paragraph c of subdivision one of section two hundred twenty-four-a of this article;

(b) the minimum dollar threshold of projects set forth in paragraph c of subdivision one of section two hundred twenty-four-a of this article;

(c) construction work excluded as a covered project, as set forth in subparagraphs (i), (ii) and (iii) of paragraph c of subdivision four of section two hundred twenty-four-a of this article;

(d) the definition of construction for purposes of section two hundred twenty-four-a of this article; or

(e) particular instances of benefits, monies or credits as to whether or not they should constitute public funds.

4. In making its recommendations, the board shall examine the impact of such thresholds and circumstances on private development in light of available public subsidies, existing labor market conditions, prevailing wage and supplement practices, and shall consider the extent to which adjustments to such thresholds and circumstances could ameliorate adverse impacts, if any, or expand opportunities for prevailing wage and supplement standards on publicly subsidized private construction projects in any region or regions of the state.

5. The board shall be empowered to issue binding determinations to any public entity, or any private or not-for-profit owner or developer as to any particular matter related to an existing or potential covered project. In such instances the board shall make a determination based upon documents, or testimony, or both in its sole discretion. Any such proceeding shall be confidential. The determination issued by the board shall be final, and may not be appealed to the commissioner, nor shall any private right of action accrue to any individual to enforce the terms of this article.

§ 3. The labor law is amended by adding a new section 813-a to read as follows:

§ 813-a. Annual reports by apprenticeship programs. 1. On an annual basis, all apprenticeship programs covered under the provisions of this article shall report to the department on the participation of apprentices currently enrolled in such apprenticeship program. The data to be included in such report shall include, at a minimum: (a) the total number of apprentices in such apprenticeship program; (b) the demographic information of such apprentices to the extent such data is available, including, but not limited to, the age, gender, race, ethnicity, and national origin of such apprentices; (c) the rate of advancement and graduation of such apprentices; and (d) the rate of placement of such apprentices onto job sites as well as the demographic information of such apprentices to the extent such data is available, including, but not limited to the age, gender, race, ethnicity, and national origin of such apprentices.

2. The department shall make such data publicly available on its website by July first, two thousand twenty-two and on an annual basis, but no later than December thirty-first of each following year.

3. The commissioner may promulgate rules and regulations necessary for the implementation of this section.

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

§ 5. This act shall take effect on July 1, 2021 and shall apply to contracts for construction executed, incentive agreements executed, procurements or solicitations issued, or applications for building permits on or after such date; provided however that this act shall not apply to any appropriations of public funds made prior to the day on which this act shall have become a law, or to re-appropriations of such funds first appropriated prior to the day on which this act shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.

PART GGG

Section 1. The legislature hereby establishes the New York digital marketplace worker classification task force (hereinafter referred to as the "task force") to provide the governor and the legislature with a

legislative recommendation addressing the conditions of employment and classification of workers in the modern economy of on-demand workers connected to customers via the internet.

§ 2. 1. The task force shall consist of nine members to be appointed as follows:

a. seven members appointed by the governor;

b. one member appointed by the temporary president of the senate; and

c. one member appointed by the speaker of the assembly.

2. The members of the task force shall include but not be limited to representatives of businesses impacted, labor groups and workers.

3. The members of the task force shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

4. Any vacancies in the membership of the task force shall be filled in the same manner provided for in the initial appointment.

5. The task force may consult with any organization, government entity, or person, in the development of its legislative recommendation report required under section three of this act.

§ 3. On or before May 1, 2020, the task force shall submit to the governor, the temporary president of the senate and the speaker of the assembly, a legislative recommendation containing, but not limited to, the following:

a. the necessary wages sufficient to provide adequate maintenance and to protect the health of the workers engaged in work in the modern economy, addressing specific categories of benefits available to workers;

b. the proper classification of workers;

c. the criteria necessary to determine if a worker is an employee;

d. laws regulating safety and health for workers currently classified as independent contractors;

e. collective bargaining;

f. the availability of anti-discrimination, opportunity and privacy protections for workers currently classified as independent contractors; and

g. any other statutory changes necessary.

§ 4. The labor law is amended by adding a new section 44 to read as follows:

§ 44. Classification of digital marketplace workers. a. For purposes of this section, "digital marketplace company" means an organization, including, but not limited to a corporation, limited liability company, partnership, sole proprietor, or any other entity, that operates a website or smartphone application, or both, that customers use to purchase, schedule and/or otherwise arrange services including, but not limited to repair, maintenance, construction, painting, assembly, cleaning, laundry, housekeeping, delivery, transportation, cooking, tutoring, massage, acupuncture, babysitting, home care, healthcare, first aid, companionship, or instruction, and where such company utilizes one or more individuals to provide such services. Such organization: (i) establishes the gross amounts earned by the individual providing such services; (ii) establishes the amounts charged to the consumer; (iii) collects payment from the consumer; (iv) pays the individual; or any combination of the foregoing actions; and the individual may provide such services in the name of the individual, or in the name of a business, or as a separate business entity, and without regard the consumer of such personal services may be an individual, business, other entity, or any combination thereof. Provided, however, no governmental entity shall be considered a digital marketplace company.

b. (1) The commissioner is hereby authorized to promulgate regulations determining the appropriate classification of individuals providing services for a digital marketplace company as defined in subdivision a of this section and such regulations shall have the force and effect of law.

(2) Such regulations shall set forth the appropriate standard for determination of whether a worker should be classified as an employee or an independent contractor, and shall consider the following conditions: (i) whether the individual is free from the control and direction of the digital marketplace company in connection with the performance of the work; (ii) whether the individual performs work that is outside the usual course of the digital marketplace company's business; and (iii) whether the individual is customarily engaged in an independently established trade, occupation, profession or business that is similar to the service at issue.

(3) Workers classified as employees as provided for in this section or who satisfy any other legal test for employment, or have been determined by a court or administrative agency to be employees, shall not have any rights or protections diminished by application of this section.

c. The commissioner may exempt any company from application of this section, provided such company has entered into a collectively negotiated agreement with a recognized collective bargaining agent.

§ 5. This act shall take effect immediately; provided, however, that section four of this act shall take effect May 1, 2020.

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

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