STATE OF NEW YORK

5234

2021-2022 Regular Sessions

IN SENATE

February 26, 2021

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the general construction law, the executive law, the education law, the election law, the military law, the insurance law, the private housing finance law, the public officers law, the tax law, the economic development law, the civil service law, and the real property tax law, in relation to including members of the space force as being members of the armed forces or veterans eligible for certain credits and benefits

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

Section 1. Section 13-a of the general construction law, as amended by chapter 490 of the laws of 2019, is amended to read as follows

§ 13-a. Armed forces of the United States. "Armed forces of the United States" means the army, navy, marine corps, air force**, space force** and coast guard, including all components thereof, and the national guard when in the service of the United States pursuant to call as provided by law. Pursuant to this definition no person shall be considered a member or veteran of the armed forces of the United States unless his or her service therein is or was on a full-time active duty basis, other than active duty for training or he or she was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such

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

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terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in ocean-going service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense or he or she served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and (i) was discharged or released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or he or she served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and (iv) was discharged or released therefrom under honorable conditions, or (v) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (vi) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 2. Subdivision 3 of section 369-b of the executive law, as added by chapter 557 of the laws of 2013, is amended to read as follows:

3. "Veteran" shall mean an individual who served on active duty in the United States army, navy, marine corps, air force, **space force,** coast guard or the reserves component, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia, who was released from such service otherwise then by dishonorable discharge after September eleventh, two thousand one.

§ 3. Subdivisions 5 and 7 of section 369-h of the executive law, subdivision 5 as added by chapter 22 of the laws of 2014 and subdivision 7 as amended by chapter 490 of the laws of 2019, are amended to read as follows:

5. "Service-disabled veteran" shall mean (a) in the case of the United States army, navy, air force, **space force,** marines, coast guard, army national guard or air national guard and/or reserves thereof, a veteran who received a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty, and (b) in the case of the New York guard or the New York naval militia and/or reserves thereof, a veteran who certifies, pursuant to the rules and regulations promulgated by the director, to having incurred an injury equivalent to a compensation rating of ten percent or greater from the United States department of veterans affairs or from the United States department of defense because of a service-connected disability incurred in the line of duty.

7. "Veteran" shall mean a person who served in the United States army, navy, air force, **space force,** marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or the New York naval militia, and who (i) has received an honorable or general discharge from such service, or (ii) has a qualifying condition, as defined in section three hundred fifty of this chapter, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of this chapter, and has received a discharge other than bad conduct or dishonorable from such service.

§ 4. Paragraph (a) of subdivision 3 of section 365 of the executive law, as added by section 5 of part W of chapter 57 of the laws of 2013, is amended to read as follows:

(a) For each New York state veterans cemetery there shall be a management board. Each such management board shall consist of nine members, including the director of the division who shall serve as chair, and four members, appointed by the governor. Of such four members, not fewer than two shall be a veteran of the United States army, the United States navy, the United States air force, **the United States space force,** the United States marines, the New York army national guard, the New York air national guard, the New York naval militia, or a member who has served in a theater of combat operations of the United States coast guard or the United States merchant marine. Two members shall be appointed by the temporary president of the senate, and two members shall be appointed by the speaker of the state assembly. At least one of the members appointed by the temporary president of the senate and at least one of the members appointed by the speaker of the assembly shall be a veteran of the United States army, the United States navy, the United States air force, the United States marines, the New York army national guard, the New York air national guard, the New York naval militia, or a member who has served in a theater of combat operations of the United States coast guard or the United States merchant marine. No member shall receive any compensation for his or her service, but members who are not state officials may be reimbursed for their actual and necessary expenses, including travel expenses incurred in performance of their duties. The management board may consult with any federal, state or local entity for the purposes of advancing its purposes, mission and duties.

§ 5. Subdivision 18 of section 3302 of the education law, as added by section 1 of part A of chapter 328 of the laws of 2014, is amended to read as follows:

18. "Uniformed service" or "uniformed services" means the Army, Navy, Air Force, **Space Force,** Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

§ 6. Subdivision 1 of section 10-102 of the election law, as amended by chapter 104 of the laws of 2010, is amended to read as follows:

1. "Military service" means the military service of the state, or of the United States, including the army, navy, marine corps, air force, **space force,** coast guard, merchant marine and all components thereof, and the coast and geodetic survey, the public health service, the national guard when in the service of the United States pursuant to call as provided by law, and the cadets or midshipmen of the United States Military Academy, United States Naval Academy, United States Air Force Academy and United States Coast Guard Academy.

§ 7. Subsection (a) of section 3435-a of the insurance law, as amended by chapter 416 of the laws of 1996, is amended to read as follows:

(a) Insurers shall be prohibited from refusing to issue a motor vehicle liability insurance policy to any person with a valid New York state driver's license which has been maintained by such person for at least thirty-nine months prior to the time of application for such policy of insurance solely on the basis that such person has not owned or leased a vehicle during such period, unless such decision is based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience. Provided, however, that an applicant demonstrating a continuous, valid out-of-state or out-of-country driver's license during such thirty-nine month period due to active service in the United States army, navy, air force, **space force** or marines shall be treated as if continuous licensing had been maintained in New York and such person shall not be rejected based solely on the fact that he or she served in the military.

§ 8. Subdivisions 3, 4, and 8 of section 1 of the military law, as amended by section 112 of the laws of 1989, are amended to read as follows:

3. The terms "military" and "military and naval" shall mean army or land, air or air force**, space force** and navy or naval.

4. The terms "military or naval" and "military (including air) or naval" shall mean army or land, air or air force**, space force** or navy or naval.

8. The terms "active military service of the United States" and "in the armed forces of the United States" shall mean full time duty in the army, navy (including marine corps), air force**, space force** or coast guard of the United States.

§ 9. Paragraph a and subparagraph 2 of paragraph b of subdivision 1 of section 214 of the military law, paragraph a as added by chapter 853 of the laws of 1953 and subparagraph 2 of paragraph b as amended by chapter 625 of the laws of 1965, are amended to read as follows:

a. has been a commissioned officer in active service for at least twenty years in the organized militia of the state of New York or in the army, air force, **space force,** navy or marine corps of the United States for at least twenty years and

(2) for ten consecutive years of such service immediately preceding his retirement and transfer to the state retired list as provided in this chapter, if he has had actual combat experience in time of war while in the army, air force, **space force,** navy or marine corps of the United States or if he has served on the active list of a force or forces of the organized militia for at least ten years as an enlisted man and at least thirty years as a commissioned officer, shall receive annually from the date of his retirement and transfer to the state retired list as provided in this chapter and during the time he remains on the state retired list seventy-five per centum of the highest annual rate of compensation paid to him by the state for the performance of military or naval duty.

§ 10. Subdivision 3 of section 1271 of the private housing finance law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

3. "Veteran" shall mean a resident of this state who (a) has served in the United States army, navy, marine corps, air force**, space force** or coast guard or (b) has served on active duty or ordered to active duty as defined in 10 USC 101 (d)(1) as a member of the national guard or other reserve component of the armed forces of the United States or (c)

has served on active duty or ordered to active duty for the state, as a member of the state organized militia as defined in subdivision nine of section one of the military law, and has been released from such service documented by an honorable or general discharge, or has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 11. Subdivision 17 of section 243 of the military law, as amended by chapter 312 of the laws of 1993, is amended to read as follows

17. Certificates as to service. A certificate signed by the commander, total army personnel center as to persons in the army or in any branch of the United States service while serving pursuant to law with the army of the United States, signed by the commander, naval military personnel as to persons in the United States service while serving pursuant to law with the United States navy, and signed by the commandant, United States marine corps, as to persons in the marine corps, or in any other branch of the United States service while serving pursuant to law with the marine corps, signed by the chief, air force military personnel center as to persons in the United States service while serving pursuant to law with the United States air force**, space force personnel center as to persons in the space force or in any other branch of the United States service while serving pursuant to law with the space force of the United States,** or signed by an officer designated by any of them, respectively, for the purpose, shall when produced be prima facie evidence as to any of the following facts stated in such certificate: That a person named has not been, or is, or has been in military service; the time when and the place where such person entered military service, his residence at that time, and the rank, branch, and unit of such service that he entered, the dates within which he was in military service, the monthly pay received by such person at the date of issuing the certificate, the time when and the place where such person died in or was discharged from such service. It is the duty of the foregoing officers to furnish such certificate on application, and any such certificate when purporting to be signed by any one of such officers, or by any person purporting upon the face of the certificate to have been so authorized, shall be prima facie evidence of its contents and of the authority of the signer to issue the same.

§ 12. Section 63 of the public officers law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

§ 63. Leave of absence for veterans on Memorial day and Veterans' day. It shall be the duty of the head of every public department and of every court of the state of New York, of every superintendent or foreman on the public works of said state, of the county officers of the several counties of said state, of the town officers of the various towns in this state, of the fire district officers of the various fire districts in this state, and of the head of every department, bureau and office in the government of the various cities and villages in this state, and the officers of any public benefit corporation or any public authority of this state, or of any public benefit corporation or public authority of any county or subdivision of this state, to give leave of absence with pay for twenty-four hours on the day prescribed by law as a public holiday for the observance of Memorial day and on the eleventh day of November, known as Veterans' day, to every person in the service of the state, the county, the town, the fire district, the city or village, the

public benefit corporation or public authority of this state, or any public benefit corporation or public authority of any county or subdivision of this state, as the case may be, (i) who served on active duty in the armed forces of the United States during world war I or world war II, or who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the Department of Defense, or who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (a) was discharged or released therefrom under honorable conditions, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service or who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (d) was discharged or released therefrom under honorable conditions, or (e) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (f) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service or during the period of the Korean conflict at any time between the dates of June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or (ii) who served on active duty in the armed forces of the United States and who was a recipient of the armed forces expeditionary medal, navy expeditionary medal or marine corps expeditionary medal for participation in operations in Lebanon from June first, nineteen hundred eighty-three to December first, nineteen hundred eighty-seven, in Grenada from October twenty-third, nineteen hundred eighty-three to November twenty-first, nineteen hundred eighty-three, or in Panama from December twentieth, nineteen hundred eighty-nine to January thirty-first, nine-

teen hundred ninety, or (iii) who served in the armed forces of a foreign country allied with the United States during world war I or world war II, or during the period of the Korean conflict at any time between June twenty-seventh, nineteen hundred fifty and January thirty-first, nineteen hundred fifty-five, or during the period of the Vietnam conflict from the twenty-eighth day of February, nineteen hundred sixty-one to the seventh day of May, nineteen hundred seventy-five, or during the period of the Persian Gulf conflict from the second day of August, nineteen hundred ninety to the end of such conflict, or who served on active duty in the army or navy or marine corps or air force **or space force** or coast guard of the United States, and who (a) was honorably discharged or separated from such service under honorable conditions, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service except where such action would endanger the public safety or the safety or health of persons cared for by the state, in which event such persons shall be entitled to leave of absence with pay on another day in lieu thereof. All such persons who are compensated on a per diem, hourly, semi-monthly or monthly basis, with or without maintenance, shall also be entitled to leave of absence with pay under the provisions of this section and no deduction in vacation allowance or budgetary allowable number of working days shall be made in lieu thereof. A refusal to give such leave of absence to one entitled thereto shall be neglect of duty.

§ 13. Subparagraph 1 of paragraph b of subdivision 29 of section 210-B of the tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(1) who served on active duty in the United States army, navy, air force, **space force,** marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who (i) was released from active duty by general or honorable discharge after September eleventh, two thousand one, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one;

§ 14. Subparagraph (A) of paragraph 2 of subsection (a-2) of section 606 of the tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(A) who served on active duty in the United States army, navy, air force, **space force,** marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who (i) was released from active duty by general or honorable discharge after September eleventh, two thousand one, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one, or (iii) is a discharged LGBT veteran, as defined in

section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one;

§ 15. Subparagraph (A) of paragraph 2 of subdivision (g-1) of section 1511 of the tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(A) who served on active duty in the United States army, navy, air force, **space force,** marine corps, coast guard or the reserves thereof, or who served in active military service of the United States as a member of the army national guard, air national guard, New York guard or New York naval militia; who (i) was released from active duty by general or honorable discharge after September eleventh, two thousand one, or (ii) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one, or (iii) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service after September eleventh, two thousand one;

§ 16. Subdivision 6 of section 210 of the economic development law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

6. "Veteran" shall mean a person who served in the United States army, navy, air force, **space force,** marines, coast guard, and/or reserves thereof, and/or in the army national guard, air national guard, New York guard and/or New York naval militia and who (a) has received an honorable or general discharge from such service, or (b) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service.

§ 17. Paragraph (b) of subdivision 5 of section 50 of the civil service law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the state civil service department, subject to the approval of the director of the budget, a municipal commission, subject to the approval of the governing board or body of the city or county, as the case may be, or a regional commission or personnel officer, pursuant to governmental agreement, may elect to waive application fees, or to abolish fees for specific classes of positions or types of examinations or candidates, or to establish a uniform schedule of reasonable fees different from those prescribed in paragraph (a) of this subdivision, specifying in such schedule the classes of positions or types of examinations or candidates to which such fees shall apply; provided, however, that fees shall be waived for candidates who certify to the state civil service department, a municipal commission or a regional commission that they are unemployed and primarily responsible for the support of a household, or are receiving public assistance. Provided further, the state civil service department shall waive the state application fee for examinations for original appointment for all veterans. Notwithstanding any other provision of law, for purposes of this section, the term "veteran" shall mean a person who has served in the armed forces of the United States or the reserves thereof, or in the army national guard, air national guard, New York guard, or the New York naval mili-

tia, and who (1) has been honorably discharged or released from such service under honorable conditions, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service. The term "armed forces" shall mean the army, navy, air force, **space force,** marine corps, and coast guard.

§ 18. Paragraph (e) of subdivision 1 of section 458-a of the real property tax law, as amended by chapter 490 of the laws of 2019, is amended to read as follows:

(e) "Veteran" means a person (i) who served in the active military, naval, **space,** or air service during a period of war, or who was a recipient of the armed forces expeditionary medal, navy expeditionary medal, marine corps expeditionary medal, or global war on terrorism expeditionary medal, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, (ii) who was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the United States Coast Guard or Department of Commerce, or as a civil servant employed by the United States Army Transport Service (later redesignated as the United States Army Transportation Corps, Water Division) or the Naval Transportation Service; and who served satisfactorily as a crew member during the period of armed conflict, December seventh, nineteen hundred forty-one, to August fifteenth, nineteen hundred forty-five, aboard merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service as such terms are defined under federal law (46 USCA 10301 & 10501) and further to include "near foreign" voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or public vessels in oceangoing service or foreign waters and who has received a Certificate of Release or Discharge from Active Duty and a discharge certificate, or an Honorable Service Certificate/Report of Casualty, from the department of defense, (iii) who served as a United States civilian employed by the American Field Service and served overseas under United States Armies and United States Army Groups in world war II during the period of armed conflict, December seventh, nineteen hundred forty-one through May eighth, nineteen hundred forty-five, and who (1) was discharged or released therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, (iv) who served as a United States civilian Flight Crew and Aviation Ground Support Employee of Pan American World Airways or one of its subsidiaries or its affiliates and served overseas as a result of Pan American's contract with Air Transport Command or Naval Air Transport Service during the period of armed conflict, December fourteenth, nineteen hundred forty-one through August fourteenth, nineteen hundred forty-five, and who (1) was discharged or released therefrom under honorable

conditions, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (v) notwithstanding any other provision of law to the contrary, who are members of the reserve components of the armed forces of the United States who (1) received an honorable discharge or release therefrom under honorable conditions, or (2) has a qualifying condition, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and has received a discharge other than bad conduct or dishonorable from such service, but are still members of the reserve components of the armed forces of the United States provided that such members meet all other qualifications under the provisions of this section.

§ 19. This act shall take effect immediately, provided, however, that the amendments made to subdivisions 5 and 7 of section 369-h of the executive law made by section three of this act shall not affect the repeal of such subdivisions and shall be deemed repealed therewith.