STATE OF NEW YORK

7838

IN SENATE

January 12, 2022

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, the general business law and the tax law in relation to peer-to-peer car sharing; to amend a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, in relation to the effectiveness thereof; and to repeal certain provisions of such laws relating thereto

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

Section 1. Paragraph 2 of subsection (b) of section 2305 of the insurance law, as amended by section 9 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

(2) motor vehicle insurance, or surety bonds, required by section three hundred seventy of the vehicle and traffic law or article forty-four-B of the vehicle and traffic law**, or article forty of the general business law**;

§ 2. Paragraph 1 of subsection (a) of section 3425 of the insurance law, as amended by section 10 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

(1) "Covered policy" means a contract of insurance, referred to in this section as "automobile insurance", issued or issued for delivery in this state, on a risk located or resident in this state, insuring against losses or liabilities arising out of the ownership, operation, or use of a motor vehicle, predominantly used for non-business purposes, when a natural person is the named insured under the policy of automobile insurance; provided, however, that the use or operation of the motor vehicle by a transportation network **company** driver as a TNC vehicle in accordance with article forty-four-B of the vehicle and traffic law **or the use or operation of the motor vehicle through a peer-to-peer car sharing program in accordance with article forty of the general business law,** shall not be included in determining whether the motor vehicle is being used predominantly for non-business purposes.

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

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§ 3. Sections 3458, 3459, 3460 and 3461 of the insurance law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law, and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, are amended to read as follows:

§ 3458. Group insurance for peer-to-peer car sharing programs. (a) For the purposes of this section [~~and sections three thousand four hundred fifty-nine, three thousand four hundred sixty and three thousand four hundred sixty-one of this article~~], the following definitions shall apply:

(1) **"Certificate" or "certificate of insurance" means any policy, contract or other evidence of insurance, or endorsement thereto, issued to a group member under a peer-to-peer car sharing group policy.**

(2) "Group policyholder" means an administrator.

(3) "Group policy member" means a shared vehicle owner or a shared vehicle driver participating in a program.

(4) "Peer-to-peer car [~~sharing" shall have the same meaning as set forth in article forty of the general business law.~~] **sharing group policy" or "group policy" means a group policy, including certificates issued to the group members, where the group policyholder is an administrator and the policy provides insurance to the administrator and to group members:**

(A) in accordance with the requirements of article forty of the general business law;

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

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

[~~(2)~~] **(5)** "Peer-to-peer car sharing program" or "program" shall have the same meaning as set forth in article forty of the general business law.

[~~(3) "Peer-to-peer car sharing program agreement" or "agreement" shall have the same meaning as set forth in article forty of the general business law.~~

~~(4) "Shared vehicle" shall have the same meaning as set forth in article forty of the general business law.~~

~~(5)~~] **(6) "Peer-to-peer car sharing program administrator" or "administrator" shall have the same meaning as set forth in article forty of the general business law.**

(7) "Shared vehicle driver" shall have the same meaning as set forth in article forty of the general business law.

[~~(6)~~] **(8)** "Shared vehicle owner" shall have the same meaning as set forth in article forty of the general business law.

[~~(7) "Peer-to-peer car sharing delivery period" shall have the same meaning as set forth in article forty of the general business law.~~

~~(8) "Peer-to-peer car sharing start time" shall have the same meaning as set forth in article forty of the general business law.~~]

(9) "Peer-to-peer car sharing period" or "car sharing period" shall have the same meaning as set forth in article forty of the general business law.

[~~(10) "Peer-to-peer car sharing termination time" shall have the same meaning as set forth in article forty of the general business law.~~

~~(11) "Group policy" means an insurance policy that provides insurance to a peer-to-peer car sharing program in accordance with the requirements of section nine hundred two of the general business law.~~]

[~~(12)~~] **(10)** "Motor vehicle" shall have the same meaning as set forth in article forty of the general business law.

(b) [~~An insurer who is authorized or eligible to do business in the state may issue, or issue for delivery in this state, a group policy of liability and property and casualty insurance to a peer-to-peer car sharing program to insure such peer-to-peer car sharing program, shared vehicles under the terms and conditions of peer-to-peer car sharing program agreements, shared vehicle drivers, and occupants of shared vehicles, as well as the program's agents, employees, directors, officers and assigns, as long as the following requirements are met:~~

~~(1) such policy shall be primary with respect to any other insurance available to the shared vehicle owner, shared vehicle driver, or any other operator of the shared vehicle in the circumstances described in subdivision two of section nine hundred three of the general business law;~~

~~(2) such policy shall provide coverage in accordance with the requirements of subdivision two of section nine hundred two of the general business law.~~

~~(c) An insurer which issues an insurance policy described in subsection (b) of this section shall issue such policy identifying the peer-to-peer car sharing program as the named insured, and any such policy shall include a provision that provides coverage, without prior notice to the insurer, for all shared vehicles during the peer-to-peer car sharing period. Such policy shall further include a provision that the shared vehicle drivers and occupants are included as insureds under the policy to the same extent that they would be insured under a private passenger motor vehicle policy issued pursuant to section three thousand four hundred twenty-five of this article and section three hundred eleven of the vehicle and traffic law.~~

~~(d) A group policy as provided for in subsections (b) and (c) of this section shall only be issued in accordance with the provisions of this section and section three thousand four hundred sixty-one of this article.~~

~~(e) An insurer which is authorized or eligible to do business in the state may issue a group policy of physical damage insurance to a peer-to-peer car sharing program to insure against loss due to physical damage to shared vehicles while the shared vehicles are in the custody of such peer-to-peer car sharing program shared vehicle driver. Except when the peer-to-peer car sharing program has contractually agreed to assume the risk of loss due to physical damage to the shared vehicle, such group policy shall provide primary coverage for physical damage loss either by collision coverage, comprehensive coverage, or both, to the shared vehicle while it shall be in the custody of the peer-to-peer car sharing program shared vehicle driver.~~

~~(f) An insurer which issues a group insurance policy described in this section shall issue such policy identifying the peer-to-peer car sharing program as the named insured, and any such policy shall include a provision that provides primary coverage, without prior notice to the~~

~~insurer, for all shared vehicles during the peer-to-peer car sharing period. Except when the peer-to-peer car sharing program has contractually agreed to assume the risk of loss due to physical damage to the shared vehicle, such policy shall also include a provision that claims shall be adjusted pursuant to section three thousand four hundred twelve of this article, and, except when the peer-to-peer car sharing program has contractually agreed to assume the risk of loss due to physical damage to the shared vehicle, it shall further include physical damage coverage for damage or loss to the shared vehicle that shall have been incurred during the peer-to-peer car sharing period at a level no less than that of the amount of third party physical damage coverage.~~

~~(g) A group policy, as provided for in subsection (c) of this section, shall only be issued in accordance with the provisions of this section.~~

~~(h)~~] An insurer may issue or issue for delivery in this state a group policy to an administrator as a group policyholder only in accordance with the provisions of this section.

(c) (1) A group policy shall provide coverage for a shared vehicle owner's motor vehicle in accordance with the requirements of article forty of the general business law.

(2) A group policy may provide:

(A) coverage for limits higher than the minimum limits required by subdivision two of section nine hundred one of the general business law, with regard to financial responsibility coverage;

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

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

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

(4) A group policy, including certificates, shall be issued by authorized insurers or through excess line brokers pursuant to section two thousand one hundred eighteen of this chapter.

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

(d) The premium for the group policy, including certificates, may be paid by the group policyholder from the funds contributed:

(1) wholly by the group policyholder;

(2) wholly by the group policy members; or

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

(e)(1) Any policy dividend, retrospective premium credit, or retrospective premium refund in respect of premiums paid by the group policyholder may:

(A) be applied to reduce the premium contribution of the group policyholder, but not in excess of the proportion to its contribution; or

(B) be retained by the group policyholder.

(2) Any policy dividend, retrospective premium credit, or retrospective premium refund not distributed under paragraph one of this subsection shall be:

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

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

(i) the insurer shall be responsible for determining the allocation of the payment or refund to the group policy members;

(ii) if the group policyholder distributes the payment or refund, then the insurer shall be responsible for conducting an audit to ascertain that the payment or refund is actually made in accordance with the allocation procedure; and

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

(3) Notwithstanding paragraphs one and two of this subsection, if a dividend accrues upon termination of coverage under a group policy, the premium for which was paid out of funds contributed by group policy members specifically for the coverage, then the dividend shall be paid or refunded by the group policyholder to the group policy members insured on the date the payment or refund is made to the group policyholder net of reasonable expenses incurred by the group policyholder in paying or refunding the dividend to such group policy members.

(4) For the purposes of this subsection, "dividend" means a return by an insurer to a group policyholder of excess premiums paid by that group policyholder in light of its favorable loss experience, including retrospective premium credits or retrospective premium refunds. The term "dividend" does not include reimbursements or fees received by a group policyholder in connection with the operation or administration of a group policy, including administrative reimbursements, fees for services provided by the group policyholder, or transactional service fees.

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

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

(h)(1) The insurer shall be responsible for the mailing or delivery of a certificate of insurance to each group policy member, provided, however, that the insurer may delegate the mailing or delivery to the administrator. The insurer also shall be responsible for mailing or delivery to each group policy member an amended certificate of insurance, or endorsement to the certificate, whenever there is a change of limits; change in type of coverage; addition, reduction, or elimination of coverage; or addition of exclusion, under the group policy or certificate.

(2) The certificate shall contain in substance all material terms and conditions of coverage afforded to the group policy member, unless the group policy is incorporated by reference and a copy of the group policy accompanies the certificate.

(3) If coverage afforded to the group policy member is in excess of other applicable insurance coverage, then the certificate shall contain a notice advising the group policy member that if the group policy member has other insurance coverage, specified coverages under the group policy will be excess over the other insurance.

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

(j) A group policy or certificate shall not be subject to section three thousand four hundred twenty-five or section three thousand four hundred twenty-six of this article, provided that the following requirements shall apply with regard to termination of coverage:

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

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

(2)(A) An insurer's cancellation of a group policy, including all certificates, shall not become effective until thirty days after the insurer mails or delivers written notice of cancellation to the group policyholder at the mailing address shown in the policy or to an electronic mail address at which the group policyholder has consented to receive such notice.

(i) Where all or part of the premium is derived from funds contributed by the group policy member specifically for the coverage, the insurer also shall mail or deliver written notice of cancellation of the group policy to the group policy member at the group policy member's mailing address or to an electronic mail address at which the group policy member has consented to receive such notice. Such cancellation shall not become effective until thirty days after the insurer mails or delivers the written notice to the group policy member.

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

(B) An insurer's cancellation of an individual certificate shall not become effective until thirty days after the insurer mails or delivers written notice of cancellation to the group policy member at the group policy member's mailing address, or to an electronic mail address at which the group policy member has consented to receive such notice, and to the group policyholder at the mailing address shown in the group policy or to an electronic mail address at which the group policyholder has consented to receive such notice.

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

(B) The group policyholder shall mail or deliver written notice to each affected group policy member of the group policyholder's cancellation of the group policy or certificate and the effective date of cancellation. The group policyholder shall mail or deliver the written notice to the group policy member's mailing address, or to an electronic mail address at which the group policy member has consented to receive

such notice, at least thirty days prior to the effective date of cancellation.

(4) A group policy member may cancel optional coverage upon providing notice to the group policyholder. For the purposes of this subsection, "optional coverage" means coverage other than financial responsibility coverage that an individual group policy member purchases on an optional basis. "Optional coverage" does not mean optional vehicle protection as defined in article forty of the general business law.

(5)(A) A group policy and all certificates shall be issued or renewed for a one-year policy period unless the group policy provides for a longer policy period.

(B) The group policyholder shall be entitled to renew the group policy and all certificates upon timely payment of the premium billed to the group policyholder for the renewal, unless the insurer mails or delivers to the group policyholder and all group policy members written notice of nonrenewal, or conditional renewal, at least thirty but not more than one hundred twenty days prior to the expiration date specified in the group policy or, if no date is specified, then the next anniversary date of the group policy.

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

(7) Every notice of cancellation, nonrenewal, or conditional renewal from an insurer shall set forth the specific reason or reasons for cancellation, nonrenewal, or conditional renewal.

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

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

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

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

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

(l) An insurer may issue a group policy to an administrator notwithstanding that it may be a condition of using or operating a motor vehicle through the administrator's program for the shared vehicle owner to participate in such group policy.

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

(n) Coverage under a group policy, as provided for in this section, shall not be dependent on [~~a personal motor vehicle~~] an insurer that issued a shared vehicle owner's policy of liability [~~insurer first denying a claim~~] insurance or other motor vehicle insurance, nor shall [~~a personal motor vehicle insurance policy~~] an insurer be required to first deny a claim before the group policy shall afford coverage pursuant to this section.

[~~(i) Group coverage provided for in this section may be placed with an excess line broker pursuant to section two thousand one hundred eighteen of this chapter.~~]

§ 3459. Car share exclusions for [~~personal~~] motor vehicle [~~liability~~] insurance policies. (a) The definitions set forth in section three thousand four hundred [~~fifty-seven~~] fifty-eight of this article shall apply to this section.

(b) Notwithstanding any other provision of law to the contrary, the shared vehicle owner's [~~personal~~] policy of liability insurance or other motor vehicle [~~insurer~~] insurance may exclude any and all coverage afforded under the policy issued to the shared vehicle owner for any loss, death, or injury that occurs during the car sharing period including:

(1) liability coverage for bodily injury and property damage;

(2) coverage provided pursuant to article fifty-one of this chapter;

(3) uninsured motorist coverage;

(4) supplementary uninsured/underinsured motorist coverage; and

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

(c) The shared vehicle owner's [~~personal~~] motor vehicle insurer shall notify the shared vehicle owner that there is no duty to defend or indemnify any person or [~~organization~~] entity for the liability for any loss, death, or injury that shall occur during the peer-to-peer car sharing period.

(d) Nothing in this article shall invalidate or limit an exclusion contained in a motor vehicle [~~liability~~] insurance policy, including any insurance policy in use or approved for use that shall exclude coverage for motor vehicles made available for rent, sharing, hire or any business use.

§ 3460. Prohibition against cancellation of policy when motor vehicle is used or operated through a peer-to-peer car sharing program. (a) An insurer shall not cancel an existing motor vehicle insurance policy solely on the basis that the motor vehicle covered by the insurance policy has been made available pursuant to a peer-to-peer car sharing program [~~unless otherwise authorized under section three thousand four hundred twenty-five of this article~~] in compliance with article forty of the general business law.

(b) The definitions set forth in section three thousand four hundred fifty-eight of this article shall apply to this section.

§ 3461. Notice of claim. (a) For purposes of article fifty-one of this chapter, 11 NYCRR Part 65 and general liability claims, notice of claim to the shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program administrator, or any insurer of the shared vehicle

owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** shall be deemed notice to all appropriate parties and insurers.

(b) Any shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator,** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** receiving such notice shall provide such notice to all appropriate parties.

(c) The definitions set forth in section three thousand four hundred fifty-eight of this article shall apply to this section.

§ 4. Subsection (b) of section 5103 of the insurance law is amended by adding a new paragraph 5 to read as follows:

5. Is injured while a motor vehicle is being used or operated by a shared vehicle driver pursuant to article forty of the general business law, provided, however, that only the insurer issuing the owner's policy of liability insurance providing coverage for the motor vehicle being used or operated by a shared vehicle driver may exclude such coverage and an insurer may not include this exclusion in a policy used to satisfy the requirements of article forty of the general business law.

§ 5. Paragraph 2 of subsection (d) of section 5106 of the insurance law, as added by section 8 of part AAA of chapter 59 of the laws of 2017, is amended to read as follows:

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

§ 6. Section 900 of the general business law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law, and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

§ 900. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Peer-to-peer car sharing" shall mean the authorized use of a shared vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program.

2. **"Peer-to-peer car sharing program" or "program" means a program that facilitates the use or operation of a shared vehicle by a shared vehicle driver.**

3. "Peer-to-peer car sharing program administrator" or [~~**"program"**~~] **"administrator"** shall mean the corporation, partnership, firm, institution, sole proprietorship or other entity or person that is responsible for operating, facilitating or administering the means, digital or otherwise, by which a business platform facilitates **a** peer-to-peer car sharing **program** for financial consideration[~~**. Such programs**~~]**, but** shall not include **a person or entity engaged in the business of renting or**

leasing rental vehicles to be operated upon the public highways for carrying passengers or non-profit or charitable organizations that facilitate peer-to-peer car sharing in exchange for payment of a fee or for financial consideration.

[~~3.~~] 4. "Peer-to-peer car sharing program agreement" or "agreement" shall mean the terms and conditions that govern the use of a shared vehicle through a peer-to-peer car sharing program.

[~~4.~~] 5. "Shared vehicle" means a motor vehicle that is available for sharing through a peer-to-peer car sharing program that is both:

(a) used nonexclusively for peer-to-peer car sharing activity pursuant to a peer-to-peer car sharing program agreement; and

(b) not otherwise made available by the shared vehicle owner for use as a rental vehicle as defined in section one hundred thirty-seven-a of the vehicle and traffic law.

[~~5.~~] 6. "Shared vehicle driver" shall mean a driver, as such term is defined by section one hundred thirteen of the vehicle and traffic law, of a shared vehicle during the sharing period who has been authorized to use such shared vehicle pursuant to a peer-to-peer car sharing program agreement.

[~~6.~~] 7. "Shared vehicle owner" shall mean [~~a registered~~] an owner, as defined in section one hundred twenty-eight of the vehicle and traffic law, of a registered shared vehicle made available for use by shared vehicle drivers through a peer-to-peer car sharing program.

[~~7.~~] 8. "Peer-to-peer car sharing delivery period" shall mean the period of time during which a shared vehicle is being delivered to the location of the peer-to-peer car sharing start time, if applicable, as documented by the governing peer-to-peer car sharing program agreement.

[~~8.~~] 9. "Peer-to-peer car sharing start time" shall mean the time when the shared vehicle becomes subject to possession or the control of the shared vehicle driver at, or after, the time the peer-to-peer car sharing period is scheduled to begin as documented in the records of a peer-to-peer car sharing program administrator.

[~~9.~~] 10. "Peer-to-peer car sharing period" or "car sharing period" shall mean the period of time that shall commence with the peer-to-peer car sharing delivery period or, if there is no peer-to-peer car sharing delivery period, the period of time that shall commence with the peer-to-peer car sharing start time and, in either case, shall end at the peer-to-peer car sharing termination time.

[~~10.~~] 11. "Peer-to-peer car sharing termination time" shall mean the earliest of the following events:

(a) the expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the peer-to-peer car sharing program agreement;

(b) returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

(c) when the shared vehicle owner or the shared vehicle owner's authorized designee takes possession [~~and~~] or control of the shared vehicle.

[~~11.~~] 12. "Group policy" means an insurance policy issued pursuant to section three thousand four hundred fifty-eight of the insurance law.

[~~12.~~] 13. "Motor vehicle" shall:

(a) have the meaning set forth in section one hundred twenty-five of the vehicle and traffic law; and

(b) have a gross weight rating of ten thousand pounds or less.

[~~13.~~] **14.** "Optional vehicle protection" shall:

(a) mean a peer-to-peer car sharing [~~program's~~] **program administrator's** agreement to contractually assume liability or risk of loss due to physical damage for all or part of any damage or loss to the shared vehicle, any loss of use of the shared vehicle, or any storage, impound, towing or administrative charges for which a shared vehicle driver, or shared vehicle owner may be liable[~~.~~]**; and**

(b) encompass within its meaning other similar terms that may be used in the vehicle renting or sharing industry such as, but not limited to, "collision damage waiver", "CDW", "damage waiver", "loss damage waiver", "LDW", and "physical damage waiver".

§ 7. Section 901 of the general business law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law, and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is REPEALED.

§ 8. Sections 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, and 920 of the general business law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law, and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, are renumbered sections 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, and 919.

§ 9. Sections 901, 902, 903, 904, 905, 906, 907, 908, 909, 912, 913, 914, 915, 916, 917, and 918 of the general business law, as renumbered by section eight of this act, are amended to read as follows:

§ 901. Requirements for doing business. 1. No shared vehicle shall be classified as a commercial vehicle, for-hire vehicle, transportation network company or TNC vehicle as defined in article forty-four-B of the vehicle and traffic law, taxi-cab, rental vehicle as defined in section one hundred thirty-seven-a of the vehicle and traffic law, or livery vehicle solely because the shared vehicle owner allows such vehicle to be used for peer-to-peer car sharing, or as such for the duration of the car sharing period, provided that: (a) the peer-to-peer car sharing is compliant with a peer-to-peer car sharing program as provided in this article; (b) if the car sharing program does not prohibit shared vehicle drivers from using shared vehicles for commercial uses, the insurance maintained by the car sharing program does not exclude coverage for such commercial uses; and (c) the car sharing program does not knowingly place the shared vehicle into use as a commercial vehicle or as a vehicle for-hire or as a transportation network company vehicle by a shared vehicle driver while engaged in peer-to-peer car sharing, unless the shared vehicle driver or owner, as applicable, is in compliance with other laws applied to the commercial use or to use as a vehicle for-hire or as a transportation network company vehicle.

2. A peer-to-peer car sharing program **administrator**, during each peer-to-peer car sharing period for each shared vehicle that it facilitates the use **and operation** of, shall maintain insurance that provides financial responsibility coverage as follows:

(a) provide insurance coverage that satisfies the financial responsibility requirements set forth in section three thousand four hundred twenty of the insurance law, article fifty-one of the insurance law and such other requirements, rules or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a motor vehicle;

(b) maintain additional insurance against loss from the liability imposed by law for damages during the car sharing period, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use or operation of a specific personal vehicle or vehicles within the state, or elsewhere in the United States or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least one million two hundred fifty thousand dollars because of bodily injury to or death of any person, and injury to or destruction of property; [~~and~~]

(c) provide coverage in accordance with subsection (f) of section three thousand four hundred twenty of the insurance law, providing supplementary uninsured/underinsured motorist insurance for bodily injury, subject to a limit per occurrence in the amount of one million two hundred fifty thousand dollars because of bodily injury or death of any person[~~.~~]**;**

(d) the insurance required under this subdivision need not be coterminous with the registration period of the shared vehicle insured[~~.~~]**; and**

(e) For purposes of article fifty-one of the insurance law, 11 NYCRR Part 65 and general liability claims, notice to the shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator,** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** of any claim shall be deemed notice to all appropriate parties and insurers. Any shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator,** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** receiving such notice shall provide such notice to all appropriate parties.

3. The insurance requirements provided in subdivision two of this section may be satisfied by insurance provided through a group policy maintained by the peer-to-peer car sharing program **administrator** on the shared vehicle, shared vehicle owner, and shared vehicle driver pursuant to this article. Provided that the peer-to-peer car sharing [~~program's~~] **program administrator's** group liability insurance policy shall be primary during each car sharing period, pursuant to section nine hundred [~~three~~] **two** of this [~~chapter~~] **article**, nothing shall be deemed to preclude an insurer from providing excess or umbrella coverage for the shared vehicle owner or shared vehicle driver if such shared vehicle owner or shared vehicle driver chooses to do so by contract or endorsement.

4. A peer-to-peer car sharing program **administrator** shall, during each peer-to-peer car sharing period for each shared vehicle that it facilitates the use **and operation** of, perform the following:

(a) provide shared vehicle owners with proof of insurance coverage satisfying subdivision two of this section and such shared vehicle owner or shared vehicle driver shall carry such proof of coverage with him or her at all times during his or her operation of a shared vehicle during a peer-to-peer car sharing period. Such proof of coverage shall be in such form as the commissioner of motor vehicles shall prescribe, which may be in the form of an insurance identification card as defined in section three hundred eleven of the vehicle and traffic law. Any insurance identification card issued pursuant to the provisions of this article shall be in addition to the insurance identification card required pursuant to article six of the vehicle and traffic law, and nothing contained in this article shall be deemed to supersede the provisions of article six of the vehicle and traffic law. Whenever the production of

an insurance identification card is required by law, a shared vehicle owner or shared vehicle driver shall: (i) produce the insurance identification card pursuant to article six of the vehicle and traffic law; and (ii) if such shared vehicle owner or shared vehicle driver was operating such vehicle during a peer-to-peer car sharing period, such shared vehicle owner or shared vehicle driver shall also produce the insurance identification card required pursuant to this article. A shared vehicle owner or shared vehicle driver who, while operating a shared vehicle during a peer-to-peer car sharing period, has in effect the insurance required pursuant to this article, shall not be deemed to be in violation of insurance requirements under article six of the vehicle and traffic law during such time as he or she was operating such vehicle during such period.

(b) provide the following for each shared vehicle driver, for each peer-to-peer car sharing period:

(i) an insurance identification card as defined in subdivision ten of section three hundred eleven of the vehicle and traffic law, or other documentation, whether printed or electronic, which the shared vehicle driver shall carry and have available in the vehicle at all times during the peer-to-peer car sharing period and clearly demonstrates that the security insurance referred to in subdivision two of this section is in full force and effect; and

(ii) a toll-free number, electronic mail, or other such form of communication by which a law enforcement police officer, representative of the department of motor vehicles, or other officer of this state or any political subdivision thereof with relevant job responsibilities may confirm that the insurance provided for in subdivision two of this section is in full force and effect.

(c) collect, maintain, and make available to the shared vehicle owner, the shared vehicle owner's primary motor vehicle liability insurer in connection with a claimed loss, the shared vehicle driver's primary motor vehicle liability insurer in connection with a claimed loss, any excess or umbrella insurers in connection with a claimed loss, third parties directly involved in motor vehicle incidents with a shared vehicle in connection with a claimed loss, and any government agency as required by law, within ten business days of a request, or as reasonably practicable thereafter the following information pertaining to incidents which occurred during the peer-to-peer car sharing period:

(i) available records of the peer-to-peer car sharing period for each shared vehicle involved, and to the extent available, verifiable electronic records of the time, initial and final locations of the vehicle, and, to the extent mileage is collected, miles driven;

(ii) in instances where an insurance claim has been filed with a group insurer, all information relevant to the claim, to the extent such information is available, including but not limited to, payments by the program concerning accidents, damages and injuries; and

(iii) For purposes of article fifty-one of the insurance law, 11 NYCRR Part 65 and general liability claims, notice to the shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator,** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** of any claim shall be deemed notice to all appropriate parties and insurers. Any shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator,** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** receiving such notice shall provide such notice to all appropriate parties.

(d) ensure that the shared vehicle owner and shared vehicle driver are given reasonable notice prior to the first use or operation of a shared vehicle pursuant to a peer-to-peer car sharing program agreement that:

(i) during the peer-to-peer car sharing period, the shared vehicle owner's [~~personal motor vehicle~~] policy of liability [~~insurer~~] insurance or other motor vehicle insurance may exclude any and all coverage afforded under [~~its~~] the policy, provided the shared vehicle owner's insurer notified its insured that it shall have no duty to indemnify or defend any person or [~~organization~~] entity for liability for any loss, death, or injury that occurs during the peer-to-peer car sharing period; and

(ii) any insurance or physical damage protection offered pursuant to paragraph (b) of subdivision two of this section or [~~subsection (e) of~~] section three thousand four hundred fifty-eight of the insurance law, shall not be valid or collectible for damages [~~or~~], losses, deaths, or injuries that occur outside of the peer-to-peer car sharing period.

(e) ensure that the shared vehicle owner acknowledges upon or before enrollment in a peer-to-peer car sharing program, and is notified in plain conspicuous language before each car sharing period, that state law may impose liability for injuries to person or property resulting from the negligence in the use or operation of the shared vehicle by shared vehicle drivers for judgments exceeding the coverage limits of insurance in effect during the car sharing period. The subsequent notice required under this subsection may be provided electronically, including by electronic mail and hyperlink to a website explaining insurance coverages and vicarious liability or other substantially similar means of notice.

5. At the time a vehicle is enrolled in the peer-to-peer car sharing program, the peer-to-peer car sharing [~~platform~~] program administrator shall file with the commissioner of motor vehicles, in such form and manner as such commissioner may require, a statement identifying the shared vehicle and proof of a group policy applicable to such shared vehicle pursuant to section three thousand four hundred seven of the insurance law. The commissioner of motor vehicles shall identify the vehicle as enrolled in the peer-to-peer car sharing program and provide proof of a group policy applicable to such shared vehicle pursuant to the insurance law in such vehicle or registration record in a manner accessible to the public. Failure of a peer-to-peer car sharing [~~platform~~] program administrator to comply with the provisions of this article may result in penalties [~~which may include suspension or revocation of license as provided by law~~].

6. (a) Except as provided in paragraph (b) of this subdivision, a group policy maintained by a program shall be placed with an insurer authorized to write insurance in this state.

(b) If a program is unable to purchase a group policy because such insurance is unavailable from authorized insurers, the program may acquire such group insurance with an excess line broker pursuant to section two thousand one hundred eighteen of the insurance law;

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

(d) Compliance with the excess [~~and surplus~~] line statutes and regulations of this state shall be performed with respect to the group as a whole and not with respect to individual group members.

(e) A group policy provided for in this section shall not include a mandatory arbitration clause in a policy issued pursuant to this section. Nothing in this section supersedes the mandatory arbitration requirements contained in section five thousand one hundred five of the insurance law.

7. A peer-to-peer car sharing program **administrator** shall, upon entering into a peer-to-peer car sharing agreement with a shared vehicle owner and prior to the shared vehicle owner making a shared vehicle available for sharing in the program, provide notice in plain conspicuous language to the shared vehicle owner that he or she may need additional insurance coverage including motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of the insurance law if the shared vehicle is subject to a lease or loan. A program shall also post this notice on its website in a prominent place and provide contact information for the department of financial services.

§ 902. Program liability. 1. Notwithstanding any other provision of law, or any provision in a shared vehicle owner's policy of motor vehicle liability insurance, in the event of a loss**, death,** or injury that shall occur during the peer-to-peer car sharing period, the peer-to-peer car sharing program insurers providing coverages under section nine hundred [~~two~~] **one** of this article shall provide financial responsibility for any bodily injury, death, or damage to property in amounts not to exceed those stated in the peer-to-peer car sharing program agreement and not less than those amounts required in section nine hundred [~~two~~] **one** of this article, and the peer-to-peer car sharing [~~program~~] **administrator** shall retain such liability irrespective of a lapse in the group policy or any other insurance policy or financial security maintained by the [~~program~~] **administrator**.

2. The insurer or insurers providing group liability insurance to the peer-to-peer car sharing program pursuant to section nine hundred [~~two~~] **one** of this article shall be primary during each car sharing period. Provided however, where: (a) a good faith dispute exists regarding who was in control of the vehicle when the loss**, death, or injury** occurred giving rise to such claim or whether the loss**, death, or injury** occurred outside of the car sharing period; and (b) the peer-to-peer car sharing program **administrator** does not have available, did not retain, or is otherwise unable to provide information demonstrating who was in **possession or** control at the time of the loss**, death, or injury** or whether the loss**, death, or injury** occurred outside of the car sharing period, the shared vehicle owner's private motor vehicle insurer shall indemnify insurer or insurers providing group liability **insurance**, to the extent of its obligation under the applicable insurance policy, if it is determined that the loss**, death, or injury** occurred outside of the peer-to-peer car sharing period. The peer-to-peer car sharing program **administrator** shall notify the [~~registered~~] **shared vehicle** owner's insurer of any such dispute within fifteen days of becoming aware that such a dispute exists.

3. In the event that the shared vehicle owner or the shared vehicle owner's personal motor vehicle insurer is named as a defendant in a civil action for a loss**, death,** or injury that occurs during any time within the peer-to-peer car sharing period, or otherwise under the direct and immediate control of a peer-to-peer car sharing program, the peer-to-peer car sharing program **administrator** shall have the duty to defend and indemnify the shared vehicle owner and the shared vehicle owner's insurer subject to the provisions of this section, section nine

hundred [~~two~~] **one** of this article and section three thousand four hundred fifty-eight of the insurance law.

4. A motor vehicle liability insurer who defends or indemnifies a claim against a shared vehicle which is excluded under the terms of its policy shall have the right to seek contribution against the peer-to-peer car sharing [~~program's~~] **program administrator's** insurer, if the claim is made against the shared vehicle owner, the shared vehicle driver or authorized [~~operator~~] **driver** for loss**, death,** or injury which occurs during the car sharing period.

5. A peer-to-peer car sharing program **administrator** may contractually assume the risk of loss due to physical damage to shared vehicles during the time that such shared vehicles are in the custody of the shared vehicle driver or peer-to-peer car sharing program, and that such assumption of risk:

(a) shall not be deemed to be physical damage insurance;

(b) that the terms of such contractual assumption may provide that the program assumes the risk of physical damage loss to the vehicle in excess of a sum certain; and

(c) if the terms of such contractual assumption include a separately itemized fee charged to the shared vehicle driver solely for the contractual assumption of the risk of loss due to physical damage, then it shall be provided under the terms set forth in this article.

6. To the extent not otherwise prohibited by state or federal law, in a claims coverage investigation, a peer-to-peer car sharing program **administrator** shall cooperate to facilitate the exchange of relevant information with directly involved parties and any insurer of a shared vehicle owner's or shared vehicle driver's participation in a peer-to-peer car sharing program.

7. In addition to other remedies available at law, the attorney general shall have authority to enforce this article as authorized by law, including injunctive and other legal and equitable relief for non-compliance by a car sharing program **administrator** or any other party through civil proceedings.

8. Any provision in a peer-to-peer car sharing agreement designated by the courts of another jurisdiction as the exclusive forum for resolving disputes shall be deemed void as against public policy with respect to the use of a peer-to-peer car sharing [~~platform~~] **program** or shared vehicle in this state.

9. A peer-to-peer car sharing program **administrator** shall be deemed to have received notice of injuries to **or death of** persons or **losses of** property covered under the insurance and financial security requirements of this article at the earlier of notice received by the peer-to-peer car sharing program **administrator** or notice received by the shared vehicle owner. A shared vehicle owner shall promptly give actual notice to the peer-to-peer car sharing program **administrator** and its insurers, including notice in the form and manner as required in the peer-to-peer car sharing agreement, of any **injuries to or death of persons or** losses **of property** potentially covered by insurance maintained by the peer-to-peer car sharing program **administrator**. A peer-to-peer car sharing program **administrator** or its insurers shall be deemed to have received actual notice when a shared vehicle owner notifies the peer-to-peer car sharing program **administrator** or its insurers when the shared vehicle owner provided notice in the form and manner required in the peer-to-peer car sharing agreement.

10. For purposes of article fifty-one of the insurance law, 11 NYCRR Part 65 and general liability claims, notice to the shared vehicle

owner, shared vehicle driver, peer-to-peer car sharing program **administrator** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** of any claim shall be deemed notice to all appropriate parties and insurers. Any shared vehicle owner, shared vehicle driver, peer-to-peer car sharing program **administrator** or any insurer of the shared vehicle owner, shared vehicle driver, or peer-to-peer car sharing program **administrator** receiving such notice shall provide such notice to all appropriate parties.

§ 903. Lien implications; notification. When a vehicle owner first registers as a shared vehicle owner [~~on~~] **in** a peer-to-peer car sharing program and prior to such time as when the shared vehicle owner makes a shared vehicle available for peer-to-peer car sharing [~~on~~] **in** the peer-to-peer car sharing program, the peer-to-peer car sharing program **administrator** shall notify in plain conspicuous language the shared vehicle owner that, if the shared vehicle shall have a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

§ 904. Insurable interest. 1. Notwithstanding any other provision of law to the contrary, a peer-to-peer car sharing program **administrator** shall have an insurable interest in a shared vehicle during the peer-to-peer car sharing period.

2. Nothing in this section shall create an obligation for a peer-to-peer car sharing program **administrator** to provide insurance beyond the requirement to ensure financial security pursuant to the provisions of subdivision two of section nine hundred [~~two~~] **one** of this article.

§ 905. Disclosures. 1. Each peer-to-peer car sharing program agreement made in [~~the~~] **this** state shall disclose and separately state or itemize to the shared vehicle owner and the shared vehicle driver:

(a) the daily rate, fees, and, if applicable, any insurance or protection package costs that shall be charged to the shared vehicle owner or the shared vehicle driver; and

(b) an emergency telephone number to contact personnel capable of providing roadside assistance and handling other customer service inquiries.

2. No peer-to-peer car sharing program **administrator** shall accept a reservation unless the shared vehicle driver has received a final quoted rate that includes all charges which the shared vehicle driver shall pay to obtain access to the vehicle, provided, however, that a peer-to-peer car sharing program **administrator** may separately state itemized optional items and/or services or any mileage below the final quoted rate in the same font and on the same page or webpage on which the rate quote is provided.

§ 906. Driver's license verification; data retention. 1. A peer-to-peer car sharing program **administrator** shall not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle furnishes proof, by electronic means or otherwise, of:

(a) a valid New York driver's license which authorizes the driver to operate vehicles of the class of the shared vehicle;

(b) a valid driver's license issued by the state or country of the driver's residence which authorizes the driver in such state or country to drive vehicles of the class of the shared vehicle and is the age required of a New York resident to operate that class of vehicle; or

(c) being otherwise specifically authorized by a valid license to operate vehicles of the class of the shared vehicle.

2. A peer-to-peer car sharing program **administrator** shall keep a record of:

(a) the name and address of the shared vehicle driver;

(b) the identification number of the driver's license of the shared vehicle driver and each other person, if any, who shall operate the shared vehicle; and

(c) the date and place of issuance of the driver's license for each such vehicle operator.

§ 907. Data privacy protections. Notwithstanding any other provision of the law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any peer-to-peer car sharing program [~~which~~] **administrator that** is authorized to operate pursuant to this article shall be for the exclusive use of such peer-to-peer car sharing program and shall not be sold, distributed, or otherwise made accessible except:

1. to the person who is the subject of such data information or record, or to enable or facilitate such person's use of the car sharing program in accordance with the peer-to-peer car sharing agreement;

2. to respond to, process, facilitate, adjust, or defend an insurance claim; or

3. if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article three 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 anonymized trip data, information, or recorded images solely for the purpose of administering such authorized [~~shared~~] **car sharing** program, and provided further that aggregated anonymized trip data may be shared with [~~the~~] **this** state or any of its political subdivisions for non-commercial transportation research or traffic management purposes. Any such exchanges or sharing shall exclude personal information, images, videos, and other recorded images collected by any peer-to-peer car sharing program **administrator**. For the purposes of this section, "personal information" shall mean information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method.

§ 908. Responsibility for equipment. A peer-to-peer car sharing program **administrator** shall have sole responsibility for any equipment, such as a global positioning system, or GPS, or other special equipment which is put in or on such **shared** vehicle to monitor or facilitate the peer-to-peer car sharing transaction, and shall agree to indemnify and hold harmless the shared vehicle owner for any damage to or theft of such equipment during the peer-to-peer car sharing period not caused by such shared vehicle owner. There shall be a rebuttable presumption that damage claimed during the peer-to-peer car sharing period was not caused by the shared vehicle owner. The peer-to-peer car sharing program **administrator** shall have the right to seek indemnity from the shared vehicle driver for any loss or damage to such equipment that shall occur during the peer-to-peer car sharing period.

§ 909. Safety recalls. 1. At the time when a shared vehicle owner registers a shared vehicle [~~on~~] **in** a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing [~~on~~] **in** the peer-to-peer car sharing

program, and no less than annually thereafter, the peer-to-peer car sharing program **administrator** shall:

(a) verify that the shared vehicle is not subject to any open safety recalls appearing on the National Highway Traffic Safety Administration recall database created under 49 C.F.R. 573.15 for which the recall repair has not been made and shall not permit a shared vehicle to be shared in a peer-to-peer car sharing program unless the vehicle recall repair has been made; and

(b) notify such shared vehicle owner of the requirements under subdivision two of this section.

2. (a) If the shared vehicle owner has received notice of a safety recall on a shared vehicle, before it is enrolled in a peer-to-peer car sharing program such shared vehicle owner shall not make such vehicle available as a shared vehicle [~~on~~] **in** a peer-to-peer car sharing program until the necessary safety recall repair has been made.

(b) If a shared vehicle owner has received notice of a safety recall on a shared vehicle while the shared vehicle is available on a peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle from such peer-to-peer car sharing program, as soon as practicable, and in no case longer than seventy-two hours after receipt of such notice, and it shall not be made available thereafter until the necessary repairs under the safety recall shall have been completed.

(c) If a shared vehicle owner has received notice of a safety recall on a shared vehicle while such shared vehicle is in the possession of a shared vehicle driver, the shared vehicle owner shall notify the peer-to-peer car sharing program **administrator** about the safety recall as soon as practicable, and in no case longer than forty-eight hours after receipt of such notice, so that the shared vehicle driver can be notified and the shared vehicle can be removed from the peer-to-peer car sharing program until the necessary safety recall repair has been made.

(d) A shared vehicle owner shall not enroll a vehicle in a peer-to-peer car sharing program unless such vehicle has been issued a valid safety inspection in compliance with article five of the vehicle and traffic law. A peer-to-peer car sharing program **administrator** shall not permit a vehicle to be shared unless the shared vehicle owner has furnished proof to the program of such safety inspection in compliance with article five of the vehicle and traffic law within the preceding twelve months.

§ 912. Discrimination in peer-to-peer car sharing prohibited. 1. No corporation, partnership, firm, institution, sole proprietorship or other entity or person engaged in the business of peer-to-peer car sharing shall refuse to make a shared vehicle available to any person otherwise qualified because of race, color, ethnic origin, religion, disability, or sex.

2. Any person, firm, partnership, association or corporation engaged in peer-to-peer car sharing found by a court of competent jurisdiction to have violated a provision of this section shall be subject to a penalty of not less than one thousand nor more than twenty-five hundred dollars for each violation.

3. (a) If a peer-to-peer car sharing program **administrator** shall engage in a persistent or repeated business activity or conduct which discriminates against any individual based on such individual's race, color, ethnic origin, religion, disability, residence or geographic location, income, sexual orientation, genetic predisposition or sex or membership in an otherwise protected class pursuant to state or federal law, the attorney general may apply, in the name of the people of the

state of New York, to the supreme court of the state of New York, on five days' notice, for an order enjoining the continuance of such business activity and directing restitution and damages. In any such proceeding, the attorney general may seek a civil penalty not to exceed five thousand dollars per violation and may recover costs pursuant to paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules.

(b) The term "persistent" as used in this subdivision shall include the continuance or carrying on of any such business activity or conduct.

(c) The term "repeated" as used in this subdivision shall include repetition of any separate and distinct business activity or conduct which shall affect more than one person.

(d) The term "business activity" as used in this subdivision shall include policies and/or standard practices of the peer-to-peer car sharing program **administrator**.

(e) In connection with any such application, the attorney general is authorized to take proof, make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules. If the attorney general shall bring an action or proceeding under this section, such authorization shall not terminate due to such action or proceeding being brought.

(f) (i) A peer-to-peer car sharing program **administrator** shall implement a zero-tolerance policy regarding a shared vehicle driver's or shared vehicle owner's activities while accessing the peer-to-peer car sharing program's digital network.

(ii) A peer-to-peer car sharing program shall adopt a policy of non-discrimination on the basis of residence or geographic location, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to shared vehicle owners and shared vehicle drivers, and notify peer-to-peer car sharing program shared vehicle owners and shared vehicle drivers [~~or~~] **of** such policy.

(iii) Peer-to-peer car sharing program shared vehicle owners and shared vehicle drivers shall comply with all applicable laws regarding non-discrimination against shared vehicle drivers or potential shared vehicle drivers on the basis of destination, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to shared vehicle owners and shared vehicle drivers and notify shared vehicle drivers and shared vehicle owners of such policy.

(iv) Peer-to-peer car sharing [~~programs~~] **program administrators** shall inform shared vehicle owners of their obligation to comply with all applicable laws relating to accommodation of service animals.

(v) A peer-to-peer car sharing program **administrator** shall implement and maintain a policy and an oversight process of providing accessibility to shared vehicle drivers with a disability and accommodation of service animals as such term is defined in section one hundred twenty-three-b of the agriculture and markets law. A peer-to-peer car sharing program **administrator** shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities.

(vi) The New York state division of human rights shall be authorized to accept, review and investigate any potential or actual violations with respect to compliance with nondiscrimination laws and accessibility laws in a form and manner consistent with authority under article fifteen of the executive law [~~and shall notify the department of finan-~~

~~cial services, upon a finding of a violation by a peer-to-peer car sharing program, for purposes of suspending a peer-to-peer car sharing program's ability to operate in the state~~].

§ 913. Optional vehicle protection; requirements. 1. (a) (i) A peer-to-peer car sharing program **administrator** shall not charge a separately itemized fee solely for optional vehicle protection, except as follows:

(A) the fee charged by a peer-to-peer car sharing program **administrator** shall represent the [~~program's~~] **administrator's** good-faith estimate of a daily charge, as calculated by the [~~program~~] **administrator**, to recover the actual, total annual expenses, incurred by the [~~program~~] **administrator**, together with a commercially reasonable allowance for the contractual risks assumed by the [~~program~~] **administrator**, for the [~~program's~~] **administrator's** agreement with shared vehicle drivers to contractually assume liability for all or part of any damage or loss to the shared vehicle during the [~~care~~] **car** sharing period;

(B) if the total amount of optional vehicle protection fees collected by a peer-to-peer car sharing program **administrator** under this section in any calendar year exceeds the [~~program's~~] **administrator's** actual costs, the [~~program~~] **administrator** shall:

(1) retain the excess amount; and

(2) adjust the estimated, average per day optional vehicle protection fee for the following calendar year by a corresponding amount.

(ii) Nothing in this section shall prevent a peer-to-peer car sharing program **administrator** from making adjustment to the optional vehicle protection fee during the calendar year.

(b) A peer-to-peer car sharing program **administrator** shall not sell optional vehicle protection unless the shared vehicle driver or shared vehicle owner agrees to the purchase of such protection in writing at or prior to the time the peer-to-peer car sharing agreement is executed.

(c) A peer-to-peer car sharing program **administrator** shall not void optional vehicle protection contractually assumed from the shared vehicle owner except for one or more of the following reasons:

(i) the damage or loss is caused intentionally or as a result of willful, wanton, or reckless conduct of the **shared vehicle** driver;

(ii) the damage or loss arises out of the **shared vehicle** driver's **use or** operation of the **shared** vehicle while intoxicated or unlawfully impaired by the use of alcohol or drugs;

(iii) the peer-to-peer car sharing program **administrator** entered into the peer-to-peer car sharing agreement based on fraudulent or materially false information supplied by the shared vehicle driver;

(iv) the damage or loss arises out of the use **or operation** of the **shared** vehicle while engaged in the commission of a crime other than a traffic infraction;

(v) the damage or loss arises out of the use **or operation** of the shared vehicle to carry persons or property for hire, as a transportation network company or TNC vehicle as defined in article forty-four-B of the vehicle and traffic law, to push or tow anything, while engaged in a speed contest, operating off-road, or for driver's training;

(vi) the damage or loss arises out of the use **or operation** of the shared vehicle by a person other than: (1) the shared vehicle driver; (2) the shared vehicle driver's spouse, child over the age of eighteen or a parent or parent-in-law of the shared vehicle driver, provided such spouse, child, parent or parent-in-law is properly licensed to operate a motor vehicle and resides in the same household as the shared vehicle driver; [~~or~~] (3) a parking valet or parking garage attendant for compensation and in the normal course of employment; **(4) any person who uses**

or operates the motor vehicle through a program during an emergency situation to a medical facility; or (5) any person licensed to drive who expressly is authorized to use or operate the motor vehicle by both the shared vehicle owner and the peer-to-peer car sharing agreement;

(vii) the damage or loss arises out of the use or operation of the shared vehicle outside of the United States when that use or operation is not specifically authorized by the peer-to-peer car sharing agreement; or

(viii) the shared vehicle driver or his or her spouse, child over the age of eighteen or a parent or parent-in-law of the shared vehicle driver have failed to comply with the requirements for reporting damage or loss as set forth in subdivision [~~five~~] four of this section;

(ix) the shared vehicle owner knowingly provided erroneous or inaccurate information to the peer-to-peer car sharing program administrator in connection with any reservation for which the shared vehicle owner has agreed that the peer-to-peer car sharing program will contractually assume the risk of loss for physical damage to the shared vehicle;

(x) the shared vehicle owner fails to submit a claim for physical damage in accordance with the terms and conditions of the peer-to-peer car sharing program agreement; or

(xi) where the shared vehicle owner fails to make the shared vehicle available for inspection when a shared vehicle driver or the shared vehicle driver's insurer requests to inspect the shared vehicle in accordance with this article.

(d) A shared vehicle driver may void optional vehicle protection prior to the beginning of the car sharing period within twenty-four hours of purchase provided that the [~~customer~~] shared vehicle driver: (i) has entered into a peer-to-peer car sharing agreement with a term of two or more days; (ii) appears in person before the shared vehicle owner together with the shared vehicle that shall be subject to inspection; and (iii) signs a cancellation form provided by the peer-to-peer car sharing program administrator.

(e) After twenty-four hours of purchase, a [~~customer~~] shared vehicle driver may prospectively terminate optional vehicle protection prior to the beginning of the car sharing period, provided the [~~customer~~] shared vehicle driver: (i) appears in person before the shared vehicle owner together with the shared vehicle that shall be subject to inspection; (ii) voids the optional vehicle protection in writing; and (iii) pays the optional vehicle protection charge for any full or partial day or portion of a day during which the optional vehicle protection was in effect.

2. Subject to the provisions of subdivisions six, seven, and eight of this section, a peer-to-peer car sharing program administrator may hold a shared vehicle driver liable for actual damage to, or loss of, a shared vehicle, provided that:

(a) any claim for such damage shall be based on a physical inspection and shall be made upon the return of such shared vehicle; and

(b) any charge for repair of such damage shall be limited to actual and reasonable costs and shall be assessed and billed separately and apart from the peer-to-peer car sharing agreement.

3. (a) Any peer-to-peer car sharing program [~~which~~] administrator that states or permits to be stated the costs of a shared vehicle in any advertisement shall state conspicuously, in plain language and in conjunction with the advertised cost of the shared vehicle and the daily rate of the applicable optional vehicle protection, that the rate constitutes an additional daily charge to the shared vehicle driver,

that the purchase of such protection is optional, if such rate can be ascertained at the time of purchase and that prospective shared vehicle drivers should examine their credit card protections and [~~automobile~~] **motor vehicle** insurance policies for coverage.

(b) Where a written advertisement, including all print media, contains the statement of the cost of the shared vehicle, the disclosure required by this section shall be printed in type no less than size twelve-point font.

(c) When the website of a peer-to-peer car sharing program **administrator** or the video presentation of a television or internet advertisement by such peer-to-peer car sharing program **administrator** contains the written statement of the cost of a shared vehicle, the depiction of such cost of the optional vehicle protection shall be clear and conspicuous.

(d) When a radio advertisement or the audio presentation of a television advertisement contains the statement of the cost of a shared vehicle, the oral statement of such cost shall immediately be accompanied by an oral statement of the cost of the optional vehicle protection if offered as a separately itemized product.

(e) When a telephone, internet or other inquiry for the cost of a shared vehicle is made to a peer-to-peer car sharing program [~~which~~] **administrator that** involves an interaction with a representative of a peer-to-peer car sharing program **administrator**, the representative of such peer-to-peer car sharing program **administrator** shall, in response to the inquiry, advise that additional optional products that may be offered by such peer-to-peer car sharing program **administrator** shall not be included in the daily rate. If an inquiry is made regarding optional vehicle protection, the representative shall provide the cost of the optional vehicle protection and state that the purchase of such protection is optional and that the shared vehicle driver's personal [~~automobile~~] **motor vehicle** insurance or credit card may provide coverage.

(f) Any peer-to-peer car sharing program **administrator** that offers optional vehicle protection to a shared vehicle driver shall disclose to such [~~person~~] **driver** the following information on its website:

"NOTICE: THE FOLLOWING IS A GENERAL SUMMARY OF SHARED DRIVERS' RIGHTS AND OBLIGATIONS. FOR COMPLETE DETAILS, REFER TO THE PEER-TO-PEER CAR SHARING AGREEMENT. OPTIONAL VEHICLE PROTECTION (OVP): This contract offers, for an additional charge, OVP to cover your financial responsibility for damage or loss to the shared vehicle. OVP is also commonly referred to as a "collision damage waiver". The purchase of OVP is optional and may be declined. Before deciding whether to purchase OVP, you may wish to determine whether your credit card, or the **motor** vehicle insurance maintained by yourself or someone in your household, affords you any coverage for damage to the shared vehicle, and the amount of deductible under any such coverage. OVP - WHEN VOID: OVP is void and shall not apply to the following situations:

1. If the damage or loss is caused as a result of the shared vehicle driver's intentional acts; willful, wanton, or reckless conduct of the driver; or **the use or** operation of the shared vehicle while intoxicated or unlawfully impaired by the use of alcohol or drugs;

2. The peer-to-peer car sharing program **administrator** entered into the peer-to-peer sharing agreement based on fraudulent or materially false information supplied by the shared vehicle driver;

3. The damage or loss arises out of the use **or operation** of the shared vehicle:

(a) while engaged in the commission of a crime, other than a traffic infraction;

(b) to carry persons or property for hire, as a transportation network company or TNC vehicle as defined in article forty-four-B of the vehicle and traffic law, to push or tow anything, while engaged in a speed contest, operating off road, or for driver's training;

(c) by a person other than: (1) the shared vehicle driver; (2) the shared vehicle driver's spouse, child over the age of eighteen or a parent or parent-in-law of the shared vehicle driver, provided such spouse, child, parent or parent-in-law is properly licensed to operate a motor vehicle and resides in the same household as the shared vehicle driver; [~~or~~] (3) a parking valet or parking garage attendant for compensation and in the normal course of employment; **(4) any person who uses or operates the motor vehicle through a program during an emergency situation to a medical facility; or (5) any person licensed to drive who expressly is authorized to use or operate the motor vehicle by both the shared vehicle owner and the peer-to-peer car sharing agreement;**

(d) outside of the [~~continental~~] United States when not specifically authorized by the peer-to-peer car sharing agreement;

(e) where the shared vehicle driver, or his or her spouse, child over the age of eighteen or a parent or parent-in-law of such shared vehicle driver failed to comply with the requirements for reporting damage or loss as set forth in law. OVP - DAMAGE REPORTING REQUIREMENTS: If the shared vehicle sustains damage or loss, the shared vehicle driver is required to complete and return an incident report notice to the peer-to-peer car sharing program **administrator**. OVP - RIGHT TO INSPECT VEHICLE DAMAGES: The shared vehicle driver and his or her insurer have the right to request an inspection of the shared vehicle damages within seventy-two hours of the return of the vehicle. Failure of the shared vehicle driver or his or her insurer to request such inspection within seventy-two hours of return shall be deemed a waiver of such person or entity's right to inspect the damaged vehicle. THEFT OF THE SHARED VEHICLE: If the shared vehicle is stolen during the term of a peer-to-peer car sharing agreement, a shared vehicle driver must report the theft of the shared vehicle to the peer-to-peer car sharing program **administrator** and a law enforcement agency within twelve hours of learning of such theft."

(f) The following disclosure notice shall be made on the face of the peer-to-peer car sharing agreement either by stamp, label or as part of the written contract or on any other written document provided to the shared vehicle driver upon execution of such contract, and shall be set apart in boldface type and in no smaller print than twelve-point font: "NOTICE: This agreement offers, for an additional charge, optional vehicle protection to cover your financial responsibility for damage or loss to the shared vehicle. The purchase of optional vehicle protection is optional and may be declined. You are advised to carefully consider whether to purchase this protection if you have coverage provided by your credit card or [~~automobile~~] **motor vehicle** insurance policy that will cover the shared vehicle. Before deciding whether to purchase optional vehicle protection, you may wish to determine whether your credit card or your **motor** vehicle insurance affords you coverage for damage to the shared vehicle and the amount of deductible under such coverage."

(g) The peer-to-peer car sharing agreement shall also include in boldface type and in no smaller print than twelve-point font and, in plain language, the conditions and exclusions set forth in paragraph (c) of

subdivision one of this section. Upon identification by the shared vehicle owner or the peer-to-peer car sharing program **administrator** of damage to the shared vehicle, such peer-to-peer car sharing program **administrator** shall inform such shared vehicle driver of his or her right to inspect the vehicle, and the procedures and time-frames for doing so, pursuant to paragraphs (b) and (c) of subdivision five of this section.

4. (a) Upon identification of damage by the shared vehicle owner or peer-to-peer car sharing program **administrator** at the time of return of the shared vehicle, termination of the peer-to-peer car sharing agreement, or within ten days if an inspection for damage is precluded because the shared vehicle is returned by automation, returned after-hours, or recovered by the shared vehicle owner or peer-to-peer car sharing program **administrator**, the peer-to-peer car sharing program **administrator** shall furnish an incident report form and a notice, pursuant to this subdivision, of the obligation of the shared vehicle driver to execute and return to the peer-to-peer car sharing program **administrator** a complete and accurate incident report describing any physical and/or mechanical damage. If the shared vehicle is returned by automation, returned after-hours, or recovered by the shared vehicle owner or peer-to-peer car sharing program **administrator**, such incident report form and notice shall be mailed by overnight delivery service or certified mail, return receipt requested, and another copy of such notification shall be sent by regular mail. The peer-to-peer car sharing program **administrator** shall retain a copy of such notice and the certified mail return receipt for a period of six years.

(b) Within seventy-two hours of receipt of the incident report form and notice, either the shared vehicle driver or his or her insurer shall notify or send notice to the peer-to-peer car sharing program **administrator** that either he, she, or the insurer wishes to inspect the damaged vehicle. If the shared vehicle driver or his or her insurer does not notify or send a request for this inspection within the seventy-two-hour period, he, she, or the insurer shall be deemed to have waived such right.

(c) If the shared vehicle driver shall decline or fail to complete and return the incident report required pursuant to paragraph (a) of this subdivision, the peer-to-peer car sharing program **administrator** shall, no sooner than ten days after the mailing of notification pursuant to such paragraph (a), mail another copy of the incident report together with a letter stating that the shared vehicle driver has declined or otherwise failed to complete and return the incident report. Such mailing shall be by overnight delivery service or certified mail, return receipt requested, and another copy of such notification by regular mail, with proof of mailing by production of a certificate of mailing from the post office. When a request to inspect the vehicle shall have been timely made by the shared vehicle driver or his or her insurer, the inspection shall be completed within seven days of such request. If the peer-to-peer car sharing program **administrator** determines the damaged vehicle to be a total loss and subject to salvage, such seventy-two hour period for notification or waiver of the wish to inspect the damaged vehicle shall not apply, and the shared vehicle driver or his or her insurer shall have ten business days from the shared vehicle driver's receipt of notification from the peer-to-peer car sharing program **administrator** pursuant to paragraph (a) of this subdivision to inspect the damaged vehicle, which shall be made available by the shared vehicle owner. Within the limits provided in this paragraph, the peer-to-peer

car sharing program **administrator** shall identify the repairer of, and provide access to, the damaged vehicle, in order to verify the nature and extent of damages, repairs and repair costs, and/or repair estimates.

(d) All notices shall be mailed to the address of the shared vehicle driver as stated on his or her license, or other address as designated by him or her in the peer-to-peer car sharing agreement.

(e) The shared vehicle driver shall complete and return the incident report required by paragraph (a) of this subdivision within ten days of the receipt of the notice required by such paragraph.

(f) The notice required by this subdivision shall be in at least twelve-point bold face type and shall contain the statement: "Failure to completely and accurately fill out and return an incident report within ten days of receipt of this notice may make the shared vehicle driver liable for damages sustained to the shared vehicle. Except where the damaged vehicle is determined to be a total loss and subject to salvage, the shared vehicle driver or his or her insurer has seventy-two hours from the return or recovery of the vehicle to notify the peer-to-peer car sharing program **administrator** that he or she wishes to inspect the damaged vehicle. The inspection shall be completed within seven business days of the request to inspect the shared vehicle. If the peer-to-peer car sharing program **administrator** does not receive notification from the shared vehicle driver or his or her insurer requesting such inspection within the seventy-two-hour period, the shared vehicle driver and his or her insurer will be deemed to have waived this right. If the peer-to-peer car sharing program **administrator** determines the damaged vehicle to be a total loss and subject to salvage, such seventy-two-hour period for notification or waiver of the wish to inspect the damaged vehicle shall not apply, and such right to inspect the damaged vehicle shall expire ten business days from the shared vehicle driver's receipt of this notice from the peer-to-peer car sharing company **program administrator**. Upon request of the shared vehicle driver or his or her insurer, we will provide a copy of the professional estimate of the costs of repairing the damaged motor vehicle." Information that is provided in response to a request by a peer-to-peer car sharing program **administrator**, but that is not provided on an incident report form, shall satisfy any reporting obligation of a shared vehicle driver if such response substantially complies with the applicable requirements of this section. If additional information is reasonably required by the peer-to-peer car sharing program **administrator** in order to adjust any claim of loss, same shall be requested of the shared vehicle driver as soon as reasonably practicable, who shall respond to same as soon as reasonably practicable.

(g) (i) For purposes of this subdivision, each of the following shall constitute an "incident report form":

(A) a motor vehicle accident report pursuant to section six hundred five of the vehicle and traffic law; or

(B) any similar appropriate form furnished by the peer-to-peer car sharing program **administrator**.

(ii) An incident report form described in clause (B) of subparagraph (i) of this paragraph:

(A) shall be sent or given to a shared vehicle driver with a request that he or she provide information pursuant to this section concerning damage to a vehicle possessed by a shared vehicle driver; and

(B) such form may also be made available as a fill-in form on the peer-to-peer car sharing [~~**program's**~~] **program administrator's** website, and the shared vehicle driver shall be advised of the availability of

such web-based fill-in form when a request for incident information is made pursuant to this subdivision.

(h) If the shared vehicle driver is physically incapable of completing the report, the requirements of this subdivision shall lapse until after he or she is able to complete the report and is notified that he or she shall complete and return the report as required by paragraph (b) of this subdivision.

(i) The peer-to-peer car sharing program **administrator** shall, at least twenty days prior to commencing an action against the shared vehicle driver, provide him or her an additional opportunity to complete and submit the incident report by providing a second notice, along with another incident report form, by certified mail, return receipt requested, and another copy of such notice and report form by regular mail, with proof of mailing by production of a certificate of mailing. If such shared vehicle driver sends the peer-to-peer car sharing program **administrator** a completed incident report within fifteen days of the receipt of the notice, the provisions of this subdivision shall be deemed satisfied.

5. (a) A peer-to-peer car sharing program **administrator** may hold a shared vehicle driver liable to the extent permitted under this [~~chap-ter~~] **section** for physical or mechanical damage to the shared vehicle that occurs during the time the shared vehicle is **used or operated** under the peer-to-peer car sharing agreement; provided, however, that a shared vehicle driver shall not be liable for any normal wear and tear or mechanical damage that could reasonably be expected from normal use **or operation** of the vehicle. For the purposes of this subdivision, the term "normal wear and tear" shall mean the deterioration of the condition of the vehicle or its component parts due to repetitive use and does not include damage that materially diminishes the value of the vehicle and arises from a specific occurrence or accident during the time the shared vehicle is subject to the peer-to-peer car sharing agreement; and the term "actual and reasonable costs" shall mean the cost to repair the shared vehicle including all discounts and price adjustments available to the peer-to-peer car sharing program **administrator** and shall include costs for towing, storage, and impound fees where applicable.

(b) The total liability of a shared vehicle driver under paragraph (a) of this subdivision for damage to a shared vehicle shall not exceed the lesser of:

(i) the actual and reasonable costs that the peer-to-peer car sharing program **administrator** incurred to repair the motor vehicle or that the peer-to-peer car sharing program **administrator** would have incurred if the motor vehicle had been repaired, which shall reflect any discounts, price reductions, or adjustments available to the peer-to-peer car sharing program **administrator**; or

(ii) the fair market value of the shared vehicle immediately before the damage occurred, as determined in the applicable market for the retail sale of the shared vehicle, less any net disposal proceeds.

(c) The total liability of a shared vehicle driver under paragraph (a) of this subdivision for loss of a shared vehicle shall not exceed reasonable costs incurred by the peer-to-peer car sharing program **administrator** for such loss due to theft of such shared vehicle up to its fair market value, as determined by the applicable market for the retail sale of such vehicle if it is established that such shared vehicle driver committed, or aided or abetted in the commission of, the theft of such shared vehicle.

(d) Damages incurred for the loss of use **or operation** of a shared vehicle and related administrative fees shall not be recovered from any shared vehicle driver or his or her insurer.

(e) A peer-to-peer car sharing program **administrator** shall not hold a shared vehicle driver liable for any amounts that the peer-to-peer car sharing program **administrator** recovers from any other party.

(f) A peer-to-peer car sharing program **administrator** shall not collect or attempt to collect the amount described in paragraph (b) of this subdivision unless the peer-to-peer car sharing program **administrator**:

(i) obtains an estimate from a repair company or an appraiser in the business of providing such appraisals regarding the cost of repairing such shared vehicle;

(ii) provides a copy of such estimate and photographic evidence upon request to such shared vehicle driver, as applicable who shall be liable under paragraph (a) of this subdivision, and the insurer of such shared vehicle driver; and

(iii) submits a copy of such estimate with any claim to collect the amount described in paragraph (b) of this subdivision.

(g) A claim against a shared vehicle driver resulting from damage or loss to a shared vehicle shall be reasonable and reflect the value of the actual **damage or** loss incurred. A peer-to-peer car sharing program **administrator** shall mitigate damages where possible and shall not assert or collect any claim for physical damage which exceeds the amount authorized under paragraph (b) of this subdivision.

(h) If insurance coverage exists under an applicable insurance policy of the **shared vehicle** driver [~~**of a shared vehicle**~~], such driver may require that the peer-to-peer car sharing program **administrator** submit any claims to such driver's insurance carrier. Upon the request of a shared vehicle driver, the peer-to-peer car sharing program **administrator** shall submit any claims to such driver's insurance carrier and shall not make any written or oral representations to the contrary, nor shall it make any written or oral representations that it shall not negotiate with such driver's insurance carrier.

6. (a) No peer-to-peer car sharing program **administrator** shall collect or charge any security deposit by credit card, debit card or otherwise, for damages to a shared vehicle or report the debt to any consumer reporting agency, as defined in subdivision (e) of section three hundred eighty-a of this chapter, during the term of the peer-to-peer car sharing program agreement, pending resolution of any dispute, or prior to obtaining judgment in a court of competent jurisdiction.

(b) No peer-to-peer car sharing program **administrator** shall require a deposit or an advance charge against the credit card or debit card of a shared vehicle driver, in any form, for damages to a shared vehicle which is in the shared vehicle driver's possession or control.

(c) No peer-to-peer car sharing program **administrator** shall collect or charge any payment from a shared vehicle driver for damage to a shared vehicle upon return or recovery of such vehicle in a damaged condition, until after the cost of the damage to such vehicle and liability therefor is agreed to between such peer-to-peer car sharing program **administrator** and a shared vehicle driver or his or her insurer, or is determined pursuant to law or peer-to-peer car sharing program agreement provisions consistent with law and the rights and obligations set forth in this section, unless there is proof corroborating that the damage did not exist prior to the reservation and the damage is appraised by an independent third-party appraiser; provided, however, that a peer-to-peer car sharing program **administrator** is not precluded from presenting

a claim to a shared vehicle driver and his or her insurer pursuant to other provisions of this section.

(d) Causes of action concerning the existence of, liability for, and extent and cost of damage to such vehicle shall, where appropriate, be commenced by a peer-to-peer car sharing program **administrator** in a court of competent jurisdiction, in accordance with the limitations and jurisdiction of the appropriate court act, provided the claimant has first mailed a demand letter. A demand letter sent by the peer-to-peer car sharing program **administrator** pursuant to this paragraph shall contain: (i) the name and post office address of such peer-to-peer car sharing program **administrator**, and of its attorney, if any; (ii) the nature of such claim; (iii) the time when, the place where and the manner in which such claim arose, if known, or if not known, the time when and place where the damage was discovered by the shared vehicle owner or peer-to-peer car sharing program **administrator**; and (iv) the items of damage or injuries claimed to have been sustained, accompanied by supporting documentation, such as repair bills, invoices and estimates in the possession of or available to such peer-to-peer car sharing program **administrator**. Such demand letter shall be served upon such shared vehicle driver and his or her insurer in a manner reasonably designed to give actual notice, via regular and certified mail, return receipt requested. Nothing contained herein shall prohibit a peer-to-peer car sharing program **administrator** and a shared vehicle driver or his or her insurer from entering into an agreement after a claim of loss to submit the matter to arbitration or mediation.

7. No peer-to-peer car sharing program **administrator** shall hold any shared vehicle driver liable for any damage to, or loss of, a shared vehicle, as provided by this section, unless such peer-to-peer car sharing program prominently discloses, in the peer-to-peer car sharing agreement, in at least twelve point bold face display, the nature and extent of such liability and such driver's rights and responsibilities pursuant to paragraph (c) of subdivision one of this section and paragraph (f) of subdivision three of this section.

8. A shared vehicle driver shall provide notice to the peer-to-peer car sharing [~~**platform**~~] **program administrator** and appropriate law enforcement agency immediately upon learning of the theft of a shared vehicle.

§ 914. Geographical discrimination prohibited. It shall be unlawful for any peer-to-peer car sharing program **administrator** to engage in any of the following practices solely on the basis of the geographical location of the residence of a New York state resident attempting to enter into a peer-to-peer car sharing agreement:

1. refusing to allow participation in such peer-to-peer car sharing program provided, however, that a **peer-to-peer** car sharing program **administrator** may designate geographical boundaries where a car sharing start time or termination time occurs;

2. imposing any additional charge for peer-to-peer car sharing of a shared vehicle; or

3. imposing any additional terms, conditions or privileges upon such peer-to-peer car sharing of a shared vehicle.

§ 915. Global positioning systems. A peer-to-peer car sharing program **administrator** shall not use information from any global positioning system technology to determine or impose any costs, fees, charges, or penalties on a shared vehicle driver for such driver's use of a shared vehicle. The use of global positioning technology shall not limit the right of such peer-to-peer car sharing program **administrator** to impose

costs, fees, charges, or penalties to recover a vehicle that is lost, misplaced, or stolen. The provisions of this subdivision shall not be construed to modify or supersede any other provision of law.

§ 916. Notice. In accordance with any applicable federal law or rule, every peer-to-peer car sharing program shall display the following notice prominently and in a clear and conspicuous location on its website, with lettering that is legible: "NOTICE: New York State Law prohibits the following practices by peer-to-peer car sharing [~~programs~~] **program administrators** based upon race, color, ethnic origin, religion, disability, sex, marital status, residence or geographic location, income, sexual orientation, genetic predisposition or age: (1) refusal to allow participation in a peer-to-peer car sharing program; and (2) the imposition of any additional charge (except in certain instances where the shared vehicle driver is under the age of 25). In addition, it is unlawful for any peer-to-peer car sharing program **administrator** to refuse to allow participation in the program to any person solely on the requirement of ownership of a credit card."

§ 917. Electronic notice authorized. 1. Notwithstanding any other provision of this article, **and the peer-to-peer car sharing act, including, without limitation, sections two thousand three hundred five, three thousand four hundred fifty-nine, three thousand four hundred sixty, and five thousand one hundred six of the insurance law,** any notice**, statement, certificate,** or disclosure of general applicability required to be provided, delivered, posted, or otherwise made available by a peer-to-peer car sharing program **administrator** pursuant to any provision of this article**, and the peer-to-peer car sharing act, including, without limitation, sections two thousand three hundred five, three thousand four hundred fifty-nine, three thousand four hundred sixty, and five thousand one hundred six of the insurance law,** shall also be deemed timely and effectively made where such notice**, statement, certificate** or disclosure is provided or delivered electronically to the shared vehicle owner and/or driver at or before the time required, provided that such shared vehicle owner and/or driver has given his or her express consent to receive such notice or disclosure in such a manner.

2. Electronic or written acceptance shall hereby be deemed a valid form of acceptance of any such notice**, statement, certificate,** or disclosure, and acceptance shall remain effective until such time as acceptance is affirmatively withdrawn by such shared vehicle driver. Notices**, statements, certificates,** and disclosures made electronically pursuant to this subdivision shall be exempt from any placement or stylistic display requirements, including but not limited to location, font size, typeset, or other specifically stated description; provided such disclosure is made in a clear and conspicuous manner.

§ 918. Airport transactions. If an airport operator, including but not limited to the public authority responsible for regulating commerce at such airport within [~~the~~] **this** state, requests that a peer-to-peer car sharing program **administrator** enter into an airport concession agreement, such peer-to-peer car sharing program shall enter into a written agreement, where the peer-to-peer car sharing program **administrator** or shared vehicle owner uses the program to:

1. list vehicles parked on airport property or at airport facilities;

2. contract for transportation to or from airport property or airport facilities;

3. facilitate the use of a shared vehicle to transport airport passengers on or off airport property; or

4. promote or market a shared vehicle to transport airport passengers on or off airport property.

§ 10. Article 29-D of the tax law, as added by a chapter of the laws of 2021 amending the insurance law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills number S. 6715 and A. 2349-A, is REPEALED and a new article 28-D is added to read as follows:

ARTICLE 28-D

SPECIAL TAX ON PEER-TO-PEER CAR SHARING

Section 1190. Definitions.
1191. Imposition of state-wide peer-to-peer tax.
1192. Imposition of metropolitan commuter transportation district tax.
1193. Imposition of regional transportation tax.
1194. Collection of tax.
1195. Presumption.
1196. Administrative provisions.
1197. Deposit and disposition of revenue.

§ 1190. Definitions. Terms used in this article shall have the same meaning as in section nine hundred of the general business law unless expressly provided otherwise. For purposes of this article, the following terms shall have the following meanings:

(a) "Gross receipts paid by the shared vehicle driver" means all consideration paid or contracted to be paid by a shared vehicle driver for use of a shared vehicle, including optional charges and fees, except for separately stated charges for taxes and government-imposed fees and airport facility fees, imposed on the shared vehicle driver.

(b) "Peer-to-peer car sharing program administrator" shall mean the corporation, partnership, firm, institution, sole proprietorship or other entity or person that is responsible for operating, facilitating, or administering the means, digital or otherwise, by which a business platform facilitates a peer-to-peer car sharing program for financial consideration.

§ 1191. Imposition of state-wide peer-to-peer tax. (a) In addition to any tax imposed under any other article of this chapter, there is hereby imposed on every shared vehicle driver and there shall be paid a tax of three percent of the gross receipts paid by the shared vehicle driver for use of a shared vehicle when the transfer of possession of the shared vehicle to the shared vehicle driver occurs in this state.

(b) Except to the extent that the transfer of a shared vehicle described in subdivision (a) of this section has already been or will be subject to the tax imposed under such subdivision and except as otherwise exempted under this article, there is hereby imposed on every shared vehicle driver and there shall be paid a use tax for the use within this state of any shared vehicle by the shared vehicle driver. For purposes of this subdivision, the tax shall be at the rate of three percent of the gross receipts paid or contracted to be paid for such shared vehicle.

§ 1192. Imposition of metropolitan commuter transportation district tax. (a) In addition to the statewide tax imposed under section eleven hundred ninety-one of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed on every shared vehicle driver and there shall be paid a metropolitan commuter transportation district tax of three percent of the gross receipts paid by the shared vehicle driver for the use of a shared vehicle when the transfer of possession of the shared vehicle to the shared

vehicle driver occurs in the metropolitan commuter transportation district as established by section twelve hundred sixty-two of the public authorities law.

(b) Except to the extent that the transfer of a shared vehicle described in subdivision (a) of this section, or section eleven hundred ninety-three of this article, has already been or will be subject to the tax imposed under such subdivision or section and except as otherwise exempted under this article, there is hereby imposed on every shared vehicle driver and there shall be paid a use tax for the use within the metropolitan commuter transportation district as established by section twelve hundred sixty-two of the public authorities law of any shared vehicle by the shared vehicle driver. For purposes of this subdivision, the tax shall be at the rate of three percent of the gross receipts paid or contracted to be paid for such shared vehicle.

§ 1193. Imposition of regional transportation tax. (a) In addition to the statewide tax imposed under section eleven hundred ninety-one of this article and in addition to any tax imposed under any other article of this chapter, there is hereby imposed on every shared vehicle driver and there shall be paid a regional transportation tax of three percent of the gross receipts paid by the shared vehicle driver for the use of a shared vehicle when the transfer of possession of the shared vehicle to the shared vehicle driver occurs anywhere in this state outside of the metropolitan transportation district as established by section twelve hundred sixty-two of the public authorities law.

(b) Except to the extent that the transfer of a shared vehicle described in subdivision (a) of this section, or section eleven hundred ninety-two of this article, has already been or will be subject to the tax imposed under such subdivision or section and except as otherwise exempted under this article, there is hereby imposed on every shared vehicle driver and there shall be paid a use tax for the use in the state outside the metropolitan commuter transportation district as established by section twelve hundred sixty-two of the public authorities law of any shared vehicle by the shared vehicle driver. For purposes of this subdivision, the tax shall be at the rate of three percent of the gross receipts paid or contracted to be paid for such shared vehicle.

§ 1194. Collection of tax. The peer-to-peer car sharing program administrator shall collect the tax from the shared vehicle driver when collecting the gross receipts to which it applies. The tax shall be paid to the peer-to-peer car sharing program administrator as trustee for and on account of the state.

§ 1195. Presumption. For the purpose of the proper administration of this article and to prevent evasion of the tax imposed by this article, it shall be presumed that every transfer of possession of a shared vehicle to a shared vehicle driver anywhere in this state is subject to the tax under this article. This presumption shall prevail until the contrary is established.

§ 1196. Administrative provisions. (a) Except as otherwise provided for in this article, the taxes imposed by this article shall be administered and collected in a like manner as and jointly with the taxes imposed by sections eleven hundred five and eleven hundred ten of this chapter. In addition, except as otherwise provided in this article, all of the provisions of article twenty-eight of this chapter (except sections eleven hundred seven, eleven hundred eight, eleven hundred nine, and eleven hundred forty-eight) relating to or applicable to the administration, collection and review of the taxes imposed by such

sections eleven hundred five and eleven hundred ten, including, but not limited to, the provisions relating to definitions, returns, exemptions, penalties, tax secrecy, personal liability for the tax, and collection of tax from the customer, shall apply to the taxes imposed by this article so far as such provisions can be made applicable to the taxes imposed by this article with such limitations as set forth in this article and such modifications as may be necessary in order to adapt such language to the taxes so imposed. Such provisions shall apply with the same force and effect as if the language of those provisions had been set forth in full in this article except to the extent that any provision is either inconsistent with a provision of this article or is not relevant to the taxes imposed by this article.

(b) The tax imposed by this article is in lieu of and replaces any tax as may be imposed under sections eleven hundred sixty, eleven hundred sixty-six-a, and eleven hundred sixty-six-b of this chapter.

§ 1197. Deposit and disposition of revenue. (a) All taxes, fees, interest and penalties collected or received by the commissioner under section eleven hundred ninety-one of this article shall be deposited and disposed of pursuant to the provisions of section one hundred seventy-one-a of this chapter.

(b) All taxes, fees, interest and penalties collected or received by the commissioner under section eleven hundred ninety-two of this article shall be deposited and disposed into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section.

(c) All taxes, fees, interest and penalties collected or received by the commissioner under section eleven hundred ninety-three of this article shall be deposited and disposed into the public transportation systems operating assistance account established by section eighty-eight-a of the state finance law.

§ 11. Subdivision 1 of section 171-a of the tax law, as amended by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

1. All taxes, interest, penalties and fees collected or received by the commissioner or the commissioner's duly authorized agent under articles nine (except section one hundred eighty-two-a thereof and except as otherwise provided in section two hundred five thereof), nine-A, twelve-A (except as otherwise provided in section two hundred eighty-four-d thereof), thirteen, thirteen-A (except as otherwise provided in section three hundred twelve thereof), eighteen, nineteen, twenty (except as otherwise provided in section four hundred eighty-two thereof), twenty-B, twenty-C, twenty-D, twenty-one, twenty-two, twenty-four, twenty-four-A, twenty-six, twenty-eight (except as otherwise provided in section eleven hundred two or eleven hundred three thereof), twenty-eight-A, twenty-eight-D (except as otherwise provided in section eleven hundred ninety-seven, twenty-nine-B, [~~twenty-nine-D (except as otherwise provided in sections twelve hundred ninety-nine-L and twelve hundred ninety-nine-M)~~], thirty-one (except as otherwise provided in section fourteen hundred twenty-one thereof), thirty-three and thirty-three-A of this chapter shall be deposited daily in one account with such responsible banks, banking houses or trust companies as may be

designated by the comptroller, to the credit of the comptroller. Such an account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. The comptroller shall require adequate security from all such depositories. Of the total revenue collected or received under such articles of this chapter, the comptroller shall retain in the comptroller's hands such amount as the commissioner may determine to be necessary for refunds or reimbursements under such articles of this chapter out of which amount the comptroller shall pay any refunds or reimbursements to which taxpayers shall be entitled under the provisions of such articles of this chapter. The commissioner and the comptroller shall maintain a system of accounts showing the amount of revenue collected or received from each of the taxes imposed by such articles. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the tenth day of each month, pay into the state treasury to the credit of the general fund all revenue deposited under this section during the preceding calendar month and remaining to the comptroller's credit on the last day of such preceding month, (i) except that the comptroller shall pay to the state department of social services that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against past-due support pursuant to subdivision six of section one hundred seventy-one-c of this article, (ii) and except that the comptroller shall pay to the New York state higher education services corporation and the state university of New York or the city university of New York respectively that amount of overpayments of tax imposed by article twenty-two of this chapter and the interest on such amount which is certified to the comptroller by the commissioner as the amount to be credited against the amount of defaults in repayment of guaranteed student loans and state university loans or city university loans pursuant to subdivision five of section one hundred seventy-one-d and subdivision six of section one hundred seventy-one-e of this article, (iii) and except further that, notwithstanding any law, the comptroller shall credit to the revenue arrearage account, pursuant to section ninety-one-a of the state finance law, that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter, and any interest thereon, which is certified to the comptroller by the commissioner as the amount to be credited against a past-due legally enforceable debt owed to a state agency pursuant to paragraph (a) of subdivision six of section one hundred seventy-one-f of this article, provided, however, he shall credit to the special offset fiduciary account, pursuant to section ninety-one-c of the state finance law, any such amount creditable as a liability as set forth in paragraph (b) of subdivision six of section one hundred seventy-one-f of this article, (iv) and except further that the comptroller shall pay to the city of New York that amount of overpayment of tax imposed by article nine, nine-A, twenty-two, thirty, thirty-A, thirty-B or thirty-three of this chapter and any interest thereon that is certified to the comptroller by the commissioner as the amount to be credited against city of New York tax warrant judgment debt pursuant to section one hundred seventy-one-l of this article, (v) and except further that the comptroller shall pay to a non-obligated spouse that amount of overpayment of tax imposed by article twenty-two of this chapter and the interest on such amount which has been credited pursuant to section one hundred seventy-one-c, one hundred

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

§ 12. Subdivision (c) of section 1160 of the tax law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

(c) The provisions of this section shall not apply to [~~a~~] peer-to-peer car sharing [~~program~~] as defined in section nine hundred of the general business law and which is subject to the [~~assessment fees~~] **taxes** set forth in article [~~twenty-nine-D~~] **twenty-eight-D** of this chapter.

§ 13. Subdivision (c) of section 1166-a of the tax law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

(c) The provisions of this section shall not apply to [~~a~~] peer-to-peer car sharing [~~program~~] as defined in section nine hundred of the general business law and which is subject to the [~~assessment fees~~] **taxes** set forth in article [~~twenty-nine-D~~] **twenty-eight-D** of this chapter.

§ 14. Subdivision (c) of section 1166-b of the tax law, as added by a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

(c) The provisions of this section shall not apply to [~~a~~] peer-to-peer car sharing [~~program~~] as defined in section nine hundred of the general business law and which is subject to the [~~assessment fees~~] **taxes** set forth in article [~~twenty-nine-D~~] **twenty-eight-D** of this chapter.

§ 15. Section 14 of a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, is amended to read as follows:

§ 14. This act shall take effect on the [~~ninetieth~~] **one hundred eighieth** day after it shall have become a law**; provided, however, that sections four, five, six, seven, eight and nine of this act shall take effect on the first day of the sales tax quarter next succeeding the one**

hundred eightieth day after 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.

§ 16. This act shall take effect immediately, provided, however, sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen and fourteen of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2021 amending the insurance law, the general business law, the tax law and the vehicle and traffic law relating to enacting the peer-to-peer car sharing program act, as proposed in legislative bills numbers S. 6715 and A. 2349-A, takes effect.